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## REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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**Editor's Note:** The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

Issue 16-April	14, 2000:	Data Through March	31, 2000
Issue 29-July	14, 2000:	Data Through June	30, 2000
Issue 42-October	13, 2000:	Data Through September	30, 2000
Issue 3-January	19, 2001:	Data Through December	31, 2000 (Annual)

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## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of this Part: Auction License Act
- 2) Code Citation: 68 Ill. Adm. Code 1440
- 3) Section Numbers:
- |          |                         |
|----------|-------------------------|
| 1440.100 | <u>Proposed Action:</u> |
| 1440.290 | Amend                   |
| 1440.300 | New Section             |
| 1440.310 | New Section             |
| 1440.320 | New Section             |
| 1440.330 | New Section             |
| 1440.340 | New Section             |
| 1440.350 | New Section             |
| 1440.360 | New Section             |
- 4) Statutory Authority: Implementing and authorized by the Auction License Act [225 ILCS 407].

- 5) A Complete Description of the Subjects and Issues Involved: The amendment in Section 1440.100 clarifies the exemption for owners of property. The new Sections set forth continuing education requirements, continuing education school requirements, continuing education school and course licensing, and other rules pertaining to continuing education.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This amendment will not affect local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

Norm Willoughby  
Office of Banks and Real Estate  
500 East Monroe, Suite 500  
Springfield, Illinois 62701  
217/782-3000

- 12) Initial Regulatory Flexibility Analysis:

## OFFICE OF BANKS AND REAL ESTATE

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- A) Types of small businesses, small municipalities and not for profit corporations affected: Licensees under the Auction License Act, community colleges and not for profit trade associations, who may become licensed as continuing education schools.
- B) Reporting, bookkeeping or other procedures required for compliance: Licensees and continuing education schools are required to maintain records of continuing education compliance and are subject to reporting same to OBRE.
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for this rulemaking was not known when the most recent regulatory agendas were submitted.

The full text of the proposed amendments begins on the next page.



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AUTHORITY: Implementing and authorized by the Auction License Act [225 ILCS 407].

SOURCE: Adopted by emergency rulemaking at 23 Ill. Reg. 13414, effective October 25, 1999, for a maximum of 150 days; adopted at 24 Ill. Reg. 3518, effective February 22, 2000; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART B: AUCTION LICENSE

Section 1440.100 Necessity of License; Exemptions

Any person, corporation, limited liability company, partnership, or other entity shall not be required to be licensed under this Act under the following circumstances:

- a) A not-for-profit organization conducting an auction solely for charitable purposes;
- b) A person or other entity who is the rightful owner of property, real or personal, sold or leased at auction, except for persons or entities who as a normal course of business sell or lease property at auction;
- c) A person or entity, while conducting an auction for the sale or lease of real property, who holds a valid broker or salesperson license under the Real Estate License Act of 2000 [225 ILCS 454];
- d) A business registered as a livestock market agency under the federal Packers and Stockyards Act (7 USC 181 et seq.) or under the Livestock Auction Market Law, and that registered business employs licensed livestock auctioneers;
- e) A vehicle dealer licensed by the Secretary of State of Illinois, or to any employee of the licensee, who is a resident of the State of Illinois, while the employee is acting in the regular scope of his or her employment for the licensee, or to sales by or through the licensee.
- f) A person under the age of 18 who, while under the direct supervision of a licensed auctioneer, sells items under \$250 in value.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1440.290 Definitions

Definitions as used in this Part:

"CE" means continuing education.

"School" means a continuing education school approved and licensed in accordance with the Act and this Part.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

OFFICE OF BANKS AND REAL ESTATE  
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TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATE

PART 1440  
AUCTION LICENSE ACT

SUBPART A: DEFINITIONS

SUBPART B: AUCTION LICENSE

Section 1440.10 Definitions

- Section 1440.100 Necessity of License; Exemptions
- 1440.110 Examination
- 1440.120 Application for Auctioneer, Associate Auctioneer License and Auction Firm
- 1440.130 Application for Licensure, Practice Prior to the Act
- 1440.140 45 Day Permit Sponsor Card
- 1440.150 Restoration of Lapsed or Expired License
- 1440.160 Nonresident Auctioneer, Associate Auctioneer Reciprocity
- 1440.170 Fees
- 1440.180 Earnings from the Investment of Moneys in the Auction Recovery Fund
- 1440.190 Address Change, Notification
- 1440.200 Pocket Card
- 1440.210 Assumed Name
- 1440.220 Supervisory Duties
- 1440.230 Advertising; Buyer Premium; Disclosure
- 1440.240 Unlicensed Assistants
- 1440.250 Felony convictions; Discipline of Other Professional License; Notification
- 1440.260 Advertising; Auction without Reserve; Absolute Auction
- 1440.270 Escrow or Trust Accounts
- 1440.280 Termination for Failure to Pay Taxes, Child Support or Student Loan
- 1440.290 Definitions

SUBPART C: CONTINUING EDUCATION

- Section 1440.300 Continuing Education Schools Approval and License
- 1440.310 Continuing Education
- 1440.320 Expiration and Renewal for Continuing Education Schools and Courses
- 1440.330 Distant Learning Programs
- 1440.340 Class Attendance Requirements
- 1440.350 Withdrawal of Approval of School and Courses
- 1440.360 Discipline of Schools



## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART C: CONTINUING EDUCATION

Section 1440.300 Continuing Education Schools Approval and License

Approval of continuing education (CE) schools. Those entities seeking approval as CE schools shall maintain an office for maintenance of all records, office equipment and office space necessary for customer service.

a) The CE school's office may be subject to inspection by authorized representatives of OBRE during regular working hours and upon at least 24 hours' notice when OBRE has reason to believe that there is not full compliance with the Act or this Part and that this inspection is necessary to ensure full compliance.

b) OBRE shall be reimbursed by any out-of-state CE school for all reasonable expenses incurred by the inspector in the course of the inspection.

c) Entities seeking approval as CE schools shall file a CE school application, on forms provided by OBRE, along with the required fee. The application shall include the following:

1) A list of all CE courses that the CE school is planning to offer during the 12 month period following approval and a list of all instructors the school plans to utilize in the offering of the CE courses. The list shall include the instructor's name, address, and approval number. An approved CE school shall not be precluded from offering CE courses or from utilizing instructors not listed in the initial application or subsequent annual renewals if written notice of the CE course and the instructor to be utilized is submitted 30 days prior to the CE course date pursuant to subsection (a)(3)(C)(v) below;

2) The description, location, date and time of each CE course to be offered;

3) The CE school's certification:

A) that the content areas of all CE courses offered by the CE school for CE credit will conform to those listed in Section 25-5(b) and (c) of the Auction License Act;

B) that all CE courses offered by the CE school for CE credit will comply with the criteria in this Section;

C) the CE school will be responsible for verifying attendance at each CE course and providing a certificate of completion signed by the CE school on forms provided by OBRE. Further, that the school will maintain these records for not less than 5 years and shall make these records available for inspection by OBRE during regular business hours;

D) that, upon request by OBRE, the CE school will submit evidence as is necessary to establish compliance with this Section and Sections 25-10 through 25-15 of the Act. The evidence shall be required when OBRE has reason to believe

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that there is not full compliance with the Act and this Part and that this information is necessary to ensure compliance; E) that the CE school will submit to OBRE a written notice of a course 30 days prior to the CE course date if the program was not listed in the application or any subsequent renewal application. The notice shall include the description, location, date and time of the CE course to be offered;

F) that the CE school will only offer CE, other than self-study CE, in an environment that is conducive to learning (i.e., adequate lighting, seating) and does not jeopardize the health, safety, and welfare of the attendees; and

G) that financial resources are available to equip and maintain its office in a manner necessary to enable the CE school to comply with Article 25 of the Act, this Section, and this Part, documented by a current balance sheet, an income statement or any similar evidence as requested by OBRE;

4) Evidence of the CE school's ability to provide the certificates required by Section 25-10(c) of the Act.

d) CE schools approved to offer the courses required by Article 25 of the Act shall be deemed to be approved to offer CE programs upon completion of an application for approval and submission of the fee required by Section 1440.170.

e) Within 30 days after the action by the Auction Advisory Board and OBRE, OBRE shall issue an approval and license to the CE school or notify the CE school, in writing, why approval cannot be issued.

f) Approved CE schools shall comply with the following:

1) No approved CE school shall allow the premises or classrooms utilized during CE courses to be used by anyone to directly or indirectly recruit new affiliates for any company. CE schools and CE instructors shall report to OBRE any efforts to recruit licensees.

2) No approved CE school shall advertise that it is endorsed, recommended, or accredited by OBRE. The CE school, however, may indicate that the school and the CE course have been approved and licensed by OBRE.

3) Approved CE schools shall utilize in the teaching of approved CE courses only CE instructors who are qualified and knowledgeable in the content offered in the course.

4) Approved CE schools shall specify in any advertising promoting CE courses the number of CE hours that may be credited toward Illinois CE requirements for license renewal. Further, approved CE schools shall specify the number of mandatory or elective CE course hours that may be earned by successfully completing the course.

5) All CE courses given by approved CE schools shall be open to all licensees and not be limited to members of a single organization or group.

g) The CE school shall be responsible for assuring verified attendance at



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each CE course or self-study examination. No renewal applicant shall receive CE credit for time not actually spent attending the CE course or when a passing score of 70% on the examination was not achieved.

To maintain approved CE school status, each CE school shall submit, prior to December 31 of odd numbered years, a school renewal application along with the required fee. The CE school shall be required to submit to OBRE with the renewal application the following:

1) A list of those CE courses planned to be offered in the 12-month period immediately following the renewal period. This list shall include a description, location, date and time the course is planned to be offered.

2) A list of those instructors the school plans to utilize. This list shall include the name and address.

Each approved CE school shall submit to OBRE on or before the 15th of each month a graduation report of those licensees passing approved CE courses offered by it during the preceding calendar month.

1) The monthly graduation reports shall include the following information for each licensee:

- A) the licensee's name, address, social security number, and license number;
- B) the CE school's name and license number; and
- C) the CE course name, course identification number, course category (mandatory or elective), credit hours, and the date and time classes were held.

2) If a CE school during the preceding calendar month gave no courses, that CE school shall report in writing that no courses were given.

3) The monthly graduation reports may be submitted in a computer readable format specified by OBRE.

4) There is no processing fee for a monthly graduation report submitted in the computer readable format specified by OBRE. Each monthly graduation report submitted on paper or in a format other than that specified by OBRE shall be accompanied by a processing fee of \$.50 per student, per course, listed on the report, payable by check to OBRE.

5) A monthly graduation report received by OBRE with a postmark after the day it is due (the 15th day of the month) shall be accompanied by an administrative fee of \$200 in addition to the fees set forth in subsection (i)(4).

6) If a CE school fails to file monthly graduation reports or a statement saying that none were given, or fails to pay required fees, if any, as set forth in subsections (i)(4) and (5), for three successive months, then the courses offered by that school may be disqualified until all delinquent graduation reports, processing fees, and administrative fees as set forth in subsections (i)(4) and (5) have been submitted to and are received by OBRE. OBRE shall send notice to the school of an informal conference before the Auction Advisory Board and of

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pending disqualification, by certified or registered mail, return receipt requested, or by other signature restricted delivery service.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1440.310 Continuing Education

a) Continuing Education Requirements

1) In accordance with Sections 10-30 and 25-5 of the Act, during each pre-renewal period, prior to the expiration date of the license, each auctioneer and associate auctioneer who makes application to renew his or her license must successfully complete 12 hours of auction continuing education courses approved by the Advisory Board and OBRE from a school approved by the Advisory Board and OBRE.

2) Auctioneers and associate auctioneers licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section, unless they are exempt pursuant to Section 10-30 of the Act.

3) OBRE shall conduct random audits to verify compliance with this Section.

b) Approved Continuing Education

1) CE credit may be earned for verified attendance at or participation in an approved course that is licensed by OBRE, and is offered by an approved CE school that is licensed by OBRE, that meets the requirements set forth in Section 1440.300 of this Part.

2) CE credit may also be earned for completion of a self-study course that is offered by an approved CE school that meets the requirements set forth in Section 1440.330 of this Part.

3) Pursuant to Section 25-5 of the Act, the requirement that CE be obtained through a curriculum approved by the Auction Advisory Board and OBRE shall be satisfied by successful completion of the following:

- A) Mandatory category. Each renewal applicant shall successfully complete 12 hours of CE, of which 6 hours shall be mandatory core subjects in the following categories:
  - i) Illinois statutes and rules governing auctioneering;
  - ii) federal statutes and regulations governing auctioneering;
  - iii) auctioneering ethics;
  - iv) escrow and trust accounts;
  - v) contracts; and
  - vi) other subject matter approved by the Board.
- B) Elective category. Each renewal applicant may satisfy the remaining 6 hours of CE from the mandatory core subjects



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categorized in subsection (b)(3)(A), or may successfully complete an additional 6 hours of CE in the following elective subject categories:

- i) agency;
- ii) business courses related to auctioneering;
- iii) real estate related courses;
- iv) auction management;
- v) bid calling;
- vi) public speaking;
- vii) advertising;
- viii) specialty auction courses; or
- ix) other subject matter approved by the Board.

4) One hour of approved CE shall include at least 50 minutes of classroom instruction and shall be exclusive of any time devoted to taking the examination set forth in subsection (b)(6) below.

5) Each CE course shall include one or more subjects from either the mandatory category or elective category set forth in subsection (b)(3)(A) or (B), where the individual is in actual attendance, or participates in, or completes self-study. All CE courses shall be a minimum of three hours and shall be offered in three-hour increments. Each three-hour increment shall be from topics in the core or elective category. In no case shall topics from the mandatory and elective category be combined within the same three-hour period. The CE school shall clearly indicate on the certificate of completion the number of hours earned from each CE course and identify whether the completed course was from the mandatory or elective category.

6) Each CE course shall include the successful completion of an examination that measures the attendee's understanding of the course material. A score of at least 70% is required on the examination for successful completion of any CE course.

A) The examination shall be given on-site immediately following any CE course. When a sequence of courses is offered, the examination will be given at the end of each individual course on material that covers all the aspects of the course.

B) All examinations, including self-study examinations and retake examinations, shall be proctored by a representative of the approved CE school and shall include at least 25 questions for each three-hour period.

C) No credit for CE shall be given to any licensee unless the examination is successfully completed. The CE school shall allow the attendee one retake within 30 days after a failed examination in order to receive credit for CE. No more than one retake shall be allowed. A licensee failing a retake shall not receive credit for the CE course unless the entire course is retaken and the examination is successfully completed.

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7) Self-study CE shall comply with all of the requirements of this Section, except that:

- A) Verified attendance is only required for taking the examination.
- B) Classroom instruction is not required for self-study CE, as the intent is for the licensees to review and learn the material on their own.
- C) The examination site for self-study shall be determined by the CE school and it shall be proctored by a representative of the approved sponsor. An instructor is not required to proctor the examination.

8) All CE courses shall:

- A) Contribute to the advancement, integrity, extension and enhancement of professional skills and knowledge in the practice of auctioneering.
- B) Provide experiences (e.g., role playing, lectures, films) that contain subject matter and course materials relevant to that set forth in Section 25-5 of the Act.
- C) Be developed and presented by persons with education and/or experience in subject matter of the CE course.

9) Nothing shall prohibit an approved CE school and its instructors from utilizing audio-visual aides or satellite communication with two-way voice interaction in assisting in the presentation of CE courses.

10) CE credit may be earned by an instructor for teaching an approved CE course. Credit for teaching an approved CE course may only be earned one time per course during the instructor's pre-renewal period. One hour of teaching is equal to one hour of CE.

11) CE credit shall not be given for CE courses taken in Illinois from schools not pre-approved by the Board and OBRE.

12) Except for self-study CE courses, no more than 6 hours of CE may be taken in any calendar day.

c) Certification of Compliance with CE Requirements

1) Each licensee shall certify on the renewal application full compliance with the CE requirements set forth in subsections (a) and (b) of this Section.

2) OBRE may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of completion, transcript, etc.). It is the responsibility of each renewal applicant to provide the additional evidence during an audit as proof of CE completed.

3) When during an audit or compliance review, OBRE determines that a licensee may be deficient in complying with CE requirements, OBRE will notify the licensee, and the sponsoring auctioneer of the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery service, of the possible deficiency. The licensee shall have 60 days from the date the deficiency notification is received to submit to OBRE



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evidence of compliance with CE requirements.

A) If satisfactory evidence of compliance with CE requirements (as set forth in subsection (c)(2) of this Section) is submitted, OBRE shall notify the licensee by first class mail that the licensee is in compliance.

B) If the licensee has certified compliance with CE requirements on the licensee's most recent renewal application pursuant to subsection (c)(1) of this Section but cannot submit evidence of having been in compliance on the date the licensee made the certification, the licensee may, during the 60 days notice period, submit evidence of having attained compliance with CE requirements after the date the certification was made. The submission of evidence of post-certification completion must be accompanied by a non-refundable administrative fee of \$25 per course credit hour completed after the date the licensee originally certified compliance. The submission of evidence will not be reviewed or considered if the proper fee does not accompany the submission. Upon submission of the evidence and appropriate fee, the evidence will be reviewed. If the evidence is found to be satisfactory, OBRE shall notify the licensee and the sponsoring auctioneer of the licensee that the license is in compliance. Any credit hours submitted for post-certification course completion and found satisfactory may not be used as credit for the next renewal requirements.

C) If the licensee fails to submit within the 60 day notice period satisfactory evidence of compliance with CE requirements, the failure shall be evidence of a violation of Section 20-15(1) of the Act regarding false or fraudulent representation to obtain a license and of the continuing education requirements of Article 25 of the Act. OBRE shall send notice pursuant to Section 20-5 of the Act indicating the commencement of disciplinary proceedings. A copy of this notice shall be sent to the sponsoring auctioneer of the licensee.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 1440.320 Expiration and Renewal for Continuing Education Schools and Courses

- a) Every continuing education school and course license shall expire on December 31 of each odd numbered year.
- b) Each licensed CE school shall be responsible for renewal of the CE school and course license on forms provided by OBRE. Failure to receive a renewal form shall not constitute a valid reason for failure

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to pay the renewal fee or to renew the appropriate license.

c) The applicable fees shall be those set forth in Section 1440.170 of this Part.

d) Each CE school shall submit a list of courses to be taught as part of the renewal application.

e) Operation of a CE school on an expired or inoperative license shall constitute the unlicensed or unauthorized practice and shall be grounds for discipline pursuant to Section 20-15 of the Act.

f) Any continuing education school whose license under the Act has expired for more than two years shall not be eligible to renew its license and must make an initial application in accordance with the Act and this Part.

g) Any CE school whose license has expired for less than two years may renew the license at any time by complying with the requirements of the Act and this Part, making application and paying the required fees and penalties.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 1440.330 Distant Learning Programs

Distance learning programs shall be affiliated with an approved school and meet the curriculum requirements set forth in Section 1440.310 of this Part, as applicable. Distance learning programs means those courses designed to be taken by means other than attendance in a classroom, e.g., Internet courses or correspondence/home study type courses.

a) The program shall be approved by OBRE in accordance with Section 25-10 of the Act, and the approved school shall:

- 1) Maintain a brief description of each lesson;
- 2) Maintain a list of titles, authors, publishers, and copyright dates of all instructional materials;
- 3) Require minimum passing scores for all examinations of no less than 70%.

b) The program shall develop a written statement of teaching methods to be employed and materials and equipment needed for each course of instruction.

c) The program shall establish written policies and procedures for examinations and lessons that shall include provisions for instructor comments, suggestions and written correction of errors. There shall also be written procedures for the prompt return of materials.

d) The program shall establish performance objectives for each specific course of study.

e) A qualified instructor shall be available during normal business hours to answer student questions.

f) Students shall be allowed to attend the school's regularly scheduled CE courses.



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the established criteria set forth in the Act and this Part.  
2) If the license approval was based upon false or deceptive information.

3) If any other professional license, accreditation, or certification of the school is suspended, revoked, or otherwise disciplined.

4) When the applicant or licensee has:

A) subverted or attempted to subvert the integrity of any exam or course, including through improper reproduction of an exam, providing an answer key to an exam, cheating, bribery or otherwise, or aids and abets an applicant or licensee to subvert the integrity of any exam or course;

B) made any substantial misrepresentation or misleading or untruthful advertising, including without limitation guaranteeing success or a "pass score" on any exam or in any course or using any trade name or insignia of membership in any educational or any auction organization of which the applicant or licensee is not a member;

C) offered auction courses without utilizing qualified instructors;

D) failed to provide information to OBRE as required under any provision of the Act or this Part; or

E) disregarded or violated any provisions of the Act or this Part.

b) Disciplinary proceedings shall be conducted as provided for in Article 20 of the Act.

c) Upon recommendation of the Auction Advisory Board, OBRE may temporarily suspend, without hearing, the approval and license of a school's courses for failure to comply with the Act or this Part. No CE credit shall be granted to any licensee for completing a CE course for which the approval of OBRE has been temporarily suspended.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1440.340 Class Attendance Requirements

a) Attendance at all classes is mandatory; however, credit for absences not to exceed 10% of the class hours may be made up by attendance at make-up classes as provided in subsection (b). Absences in excess of 10% of class hours shall result in failure of the course.

b) Each school shall provide time and facilities for conducting make-up classes for students who were absent from the regularly scheduled class period.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1440.350 Withdrawal of Approval of School and Courses

a) Upon written recommendation of the Board, OBRE shall withdraw the approval of the continuing education school or course when the quality of the program fails to continue to meet the established criteria set forth in this Part or if approval of the school or program was based upon false or deceptive information.

b) If the Board has reason to believe there has been any fraud, dishonesty, or lack of integrity in the furnishing of any documentation for the evaluation of a school or program, it shall refer the matter for investigation and any disciplinary action that might be appropriate under the Act and this Part.

c) A CE school whose program or courses are being reconsidered shall be given at least 30 days written notice prior to any reconsideration by the Board. The officials in charge may either submit written comments or request a hearing before the Board.

d) In the event the auction license of the administrator of an approved school is suspended or revoked, the school approval shall automatically be rescinded.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1440.360 Discipline of Schools

a) Upon written recommendation of the Board to the Commissioner, OBRE may refuse to issue or renew a license, reprimand, fine, withdraw approval, place on probation, suspend, or revoke any license or otherwise discipline any license of any school, or applicant for the license, and may impose a civil penalty not to exceed \$10,000 upon a licensee, when at any time:

1) The quality of the course, instruction or program fails to meet



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Designation of Agent
- 2) Code Citation: 83 Ill. Adm. Code 215
- 3) Section Numbers: Proposed Action:  
215.10 Amendment
- 4) Statutory Authority: Implementing Sections 4-101, 16-108, and 16-115 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/4-101, 16-108, 16-115 and 10-101].

5) A Complete Description of the Subjects and Issues Involved: The Illinois Commerce Commission has adopted 83 Ill. Adm. Code 215, "Designation of Agent," as its rules regarding the filing of the names of the designated agent and the chief executive officer. These rules require regulated entities to provide the Commission, each year, the name and address of an agent within the State of Illinois, upon whom notices, pleadings, and other formal documents may be served. The annual filings are compiled into a list that helps ensure that formal communications are served upon the person whom the regulated entity designates, facilitating such communications both for the benefit of the Commission and the entities it certifies under the Public Utilities Act.

With the addition of Article XVI to the Public Utilities Act, there have been created new regulated entities that are not public utilities currently subject to Part 215. It is appropriate at this time to amend Part 215 to require alternative retail electric suppliers and meter service providers to comply with the same information filing regulations to which traditional public utilities are subject.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any state mandate on units of local government, school districts, or community college districts.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed within 45 days after the date of this issue of the *Illinois Register* to:

Donna M. Caton

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield IL 62701  
(217)782-7434

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This amendment will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This amendment will not affect any small municipalities or not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: Filing procedures

C) Types of professional skills necessary for compliance: Managerial skills

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the Commission did not anticipate the publication of first notice at this time.

The full text of the Proposed Amendment begins on the next page:



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED AMENDMENT

## TITLE 83: PUBLIC UTILITIES

## CHAPTER I: ILLINOIS COMMERCE COMMISSION

SUBCHAPTER b: PROVISIONS APPLICABLE TO  
MORE THAN ONE KIND OF UTILITY

## PART 215

## DESIGNATION OF AGENT

## Section

215.10 Designation of Agent

215.20 Out-of-State Agent for Foreign Corporations

215.30 Service of Process, Notices or Demands

215.40 Filing of Name and Address of Chief Executive Officer

215.50 Report of Change of Executive Officer or Agent

AUTHORITY: Implementing Sections 4-101, 16-108, and 16-115 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/4-101, 16-108, 16-115 and 10-101].

SOURCE: Filed and effective December 7, 1973; codified at 8 Ill. Reg. 12181; amended at 13 Ill. Reg. 4650, effective April 1, 1989; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 215.10 Designation of Agent

a) Every public utility subject to the provisions of the The Public Utilities Act ("Act") [220 ILCS 5] ~~{11-Rev--Stat--1987--ch--111-2/37 par--1-101-et-seq--}~~ shall annually designate in writing, ~~on a form~~ prescribed by the Illinois Commerce Commission ("Commission"), an agent within the State of Illinois upon whom service of all process, notices and demands may be had for and on behalf of the public utility, in any proceeding before the Commission. Each public utility shall file the designation in the office of the Chief Clerk of the Commission at Springfield, Illinois, after January 1 and prior to January 31 of each year.

b) For purposes of this Part, "public utility" includes all telecommunications carriers as defined in Section 13-202 of the Act [220 ILCS 5/13-202], all alternative retail electric suppliers as defined in Section 16-102 of the Act [220 ILCS 5/16-102], and all meter service providers certificated pursuant to 83 Ill. Adm. Code 460.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Calculation of Excess Cost Under Section 18-3 of the School Code

2) Code Citation: 23 Ill. Adm. Code 140

3) Section Number: Proposed Action:  
140.30 Amendment

4) Statutory Authority: 105 ILCS 5/18-3

5) A Complete Description of the Subjects and Issues Involved: This set of rules deals with the reimbursement that is available to school districts that provide educational services to groups of students who reside in settings such as orphanages and detention centers. P.A. 91-764 (effective June 9, 2000) amended Section 18-3 of the School Code to provide that a district's failure to certify its claim for a particular year by July 31 would constitute the forfeiture of that claim. Section 140.30 needs to be amended to convey this information.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? This rulemaking does not contain an incorporation by reference under Section 5-75 of the Illinois Administrative Procedure Act.

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a state mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this notice to:

Sally Vogl

Agency Rules Coordinator

Illinois State Board of Education

100 North First Street

Springfield, Illinois 62777

(217) 782-3950

email: rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit



## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:  
Not applicable

C) Types of professional skills necessary for compliance: Not applicable

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendment begins on the next page:

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER C: FINANCE

## PART 140

## CALCULATION OF EXCESS COST UNDER SECTION 18-3 OF THE SCHOOL CODE

Section	Purpose and Applicability
140.10	Allowable Costs
140.20	Requirements for Submission of Claims
140.30	Calculation of Reimbursement
140.40	

AUTHORITY: Implementing and authorized by Section 18-3 of the School Code [105 ILCS 5/18-3].

SOURCE: Adopted at 23 Ill. Reg. 7882, effective July 1, 1999; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 140.30 Requirements for Submission of Claims

Each school district shall certify to the State Superintendent of Education, using a format specified by the State Superintendent, its report of claims for tuition payments no later than July 31. Failure on the part of the school board to certify its claim on July 31 shall constitute a forfeiture by the district of its right to the payment of any such tuition claim for the school year just ended. (Section 18-3 of the School Code) No payment shall be made for any mailed claim that is postmarked later than July 31 of the relevant year or for any claim filed electronically (when such filing has been authorized by the State Superintendent) or otherwise delivered after that date.

a) When a district files a claim for excess costs relative to pupils who are served in a program that is provided solely on the premises of the facility where they reside or is otherwise physically separate, the claim must include:

- 1) a description of the regular program for which the district also claims reimbursement under Section 18-3 of the School Code;
- 2) a report of the expenditures incurred by the district for the regular program described pursuant to subsection (a)(1), on forms supplied by the State Superintendent of Education;
- 3) the number of pupils in average daily attendance in the regular program described in subsection (a)(1) during the term to which the claim applies;
- 4) a record for each student, indicating:
  - A) the pupil's name and date of birth,
  - B) the services provided to the pupil that are not included in or that exceed the level provided in the regular program,
  - C) the amount, intensity, and/or frequency of the services,



## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

- D) the total hours of service provision, and  
 E) the total cost of the services.
- b) When a district files a claim for excess costs relative to pupils who are served in the district's regular attendance centers, the claim must include:
- 1) a description of the services provided that exceed those otherwise provided within the attendance center in question, e.g., services not provided to the other students in that attendance center or services provided for more time than to other students within that attendance center; and
  - 2) a record for each student containing the information specified in subsection (a)(4) of this Section.
- c) No later than ten days after receipt of a request for additional information, a district shall submit such information as the State Superintendent of Education may require for the purposes of clarifying the basis for its claim.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF FINANCIAL INSTITUTIONS

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Credit Union Act
- 2) Code Citation: 38 Ill. Adm. Code 190
- 3) Section Numbers: 190.5  
190.165  
Proposed Action:  
Amendment  
Amendment
- 4) Statutory Authority: 205 ILCS 305/8
- 5) A Complete Description of the Subjects and Issues Involved: Section 190.5. This amendment gives credit unions greater flexibility in their investments in and loans to Credit Union Services Organizations by eliminating the need for Department approval when the credit union complies with the criteria set forth in the amendment.  
  
Section 190.165. This amendment gives credit unions greater flexibility in making business loans to members and eliminates the need for Department approval for credit unions with assets greater than \$30 million.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? Yes. GAAP and Bankruptcy Code
- 9) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
110.500	December 29, 2000	24 Ill. Reg. 18942
110.505	December 29, 2000	24 Ill. Reg. 18942
110.510	December 29, 2000	24 Ill. Reg. 18942
110.515	December 29, 2000	24 Ill. Reg. 18942
110.520	December 29, 2000	24 Ill. Reg. 18942
110.525	December 29, 2000	24 Ill. Reg. 18942
110.530	December 29, 2000	24 Ill. Reg. 18942
110.535	December 29, 2000	24 Ill. Reg. 18942
110.540	December 29, 2000	24 Ill. Reg. 18942
110.545	December 29, 2000	24 Ill. Reg. 18942
110.550	December 29, 2000	24 Ill. Reg. 18942
110.555	December 29, 2000	24 Ill. Reg. 18942
110.560	December 29, 2000	24 Ill. Reg. 18942
110.565	December 29, 2000	24 Ill. Reg. 18942
110.570	December 29, 2000	24 Ill. Reg. 18942
110.575	December 29, 2000	24 Ill. Reg. 18942
110.580	December 29, 2000	24 Ill. Reg. 18942



DEPARTMENT OF FINANCIAL INSTITUTIONS

NOTICE OF PROPOSED AMENDMENTS

- 110.APPENDIX A December 29, 2000 24 Ill. Reg. 18942  
110.APPENDIX B December 29, 2000 24 Ill. Reg. 18942

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate on units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Susan J. Gold  
Deputy Counsel  
Illinois Department of Financial Institutions  
100 W. Randolph  
Suite 15-700  
Chicago IL 60601  
(312)814-3202

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Credit Unions  
B) Reporting, bookkeeping or other procedures required for compliance: None  
C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: It was unclear when or if the amendments would be submitted.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF FINANCIAL INSTITUTIONS

NOTICE OF PROPOSED AMENDMENTS

- TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER I: DEPARTMENT OF FINANCIAL INSTITUTIONS

PART 190  
ILLINOIS CREDIT UNION ACT

Section	
190.5	Credit Union Service Organizations
190.10	Field of Membership Procedures
190.20	Hearings
190.30	Cease and Desist Procedures
190.40	Removal or Suspension Procedures
190.50	Fees
190.60	General Accounting Procedures
190.70	Loan Loss Accounting Procedures
190.80	Use of Electronic Data Processing
190.90	Fixed Asset Investments
190.100	Classes of Share and Special Purpose Share Accounts
190.110	Share Drafts
190.120	Bond and Insurance Requirements
190.130	Verification of Share and Loan Accounts
190.140	Real Estate Lending
190.150	Reverse Mortgage
190.160	Lending Limits - Other Than First Mortgage Loans
190.165	Business Loans
190.170	Group Purchasing
190.180	Investments
190.190	Liquidation
190.200	Conversion of Charter

AUTHORITY: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305].

SOURCE: Adopted at 4 Ill. Reg. 20, p. 17, effective May 7, 1980; amended at 6 Ill. Reg. 11154, effective September 7, 1982; amended and codified at 7 Ill. Reg. 14973, effective October 26, 1983; emergency amendment at 9 Ill. Reg. 14378, effective September 11, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 16231, effective October 10, 1985; amended at 10 Ill. Reg. 14667, effective August 27, 1986; amended at 12 Ill. Reg. 10464, effective June 7, 1988; amended at 12 Ill. Reg. 17383, effective October 24, 1988; amended at 13 Ill. Reg. 3793, effective March 10, 1989; amended at 13 Ill. Reg. 15998, effective October 2, 1989; emergency amendment at 16 Ill. Reg. 12781, effective July 29, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17073, effective October 26, 1992; amended at 19 Ill. Reg. 2826, effective February 24, 1995; amended at 20 Ill. Reg. 5803, effective April 8, 1996; emergency amendment at 20 Ill. Reg. 13093, effective September 27, 1996, for a maximum of 150 days; emergency expired February 17, 1997; amended at 22 Ill. Reg. 17317, effective September 15, 1998; emergency amendment at 23 Ill. Reg. 3086, effective February 23, 1999, for a maximum of 150 days; emergency expired July



## DEPARTMENT OF FINANCIAL INSTITUTIONS

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22, 1999; amended at 23 Ill. Reg. 12614, effective October 4, 1999; amended at 23 Ill. Reg. 14031, effective November 12, 1999; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 190.5 Credit Union Service Organizations

- a) The provisions of this Section apply to credit unions investing in or lending which choose to invest in or extend to or delegate managerial duties and responsibilities to a Credit Union Service Organization (CUSO), which is a credit union organization as defined in Section 1.1 of the Illinois Credit Union Act [205 ILCS 305/1.1]. (Ill. Reg. Stat. 1987, ch. 17, par. 4402) must apply to the Department for approval prior to any involvement with the particular CUSO. The letter of application to the Department must contain the following information:
- b) Prior to the initial investment in or loan to a CUSO, the records of the credit union shall contain the following information:

- 1) The name and location of the CUSO.
- 2) Services provided by the CUSO.
- 3) The names of the officers, employees and agents of the CUSO and their relationship to the credit union and the credit union's directors, officers, staff and members.
- 4) The form of organization under which the CUSO operates, including but not limited to -- corporation, limited partnership, general partnership, sole proprietorship or joint venture, limited liability company, or limited partnership.
- 5) A copy of any proposed contract or agreement between the credit union and the CUSO. The written service agreement between the credit union and the CUSO must contain a clause which states the CUSO will:
  - A) Provide the Department with complete access to any books and records of the CUSO, with the costs of examining these records borne by the credit union served in accordance with the per diem rate set out in Section 12 of the Act (Ill. Reg. Stat. 1987, ch. 17, par. 4413);
  - B) Follow Generally Accepted Accounting Principles as outlined by the Financial Accounting Standards Board (High-Ridge Park, Stamford, Connecticut 06905) June 17, 1981. This incorporation by reference does not include any later amendments;
  - C) Provide the credit union with the financial statements of the CUSO on at least a quarterly basis and Certified Public Accountant (CPA) audited financial statements on an annual basis;
- 56) The most recent financial statements of the credit union and the CUSO.
- 67) The customer base served by the CUSO who the CUSO now serves.
- 78) The credit union's investments in or loans to other CUSOs.

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89) The credit union's indebtedness to any other credit unions, corporations, financial institutions, credit union organizations, or other organizations.

- c) A credit union and a CUSO must be operated in a manner that demonstrates to the public the separate corporate existence of the credit union and the CUSO.

- 1) Good business practices dictate that each must operate so that:
  - A) Its respective business transactions, accounts, and records are not intermingled;
  - B) Each observes the formalities of its separate corporate procedures;
  - C) Each is adequately financed as a separate unit in the light of normal obligations reasonably foreseeable in a business of its size and character;
  - D) Each is held out to the public as a separate enterprise;
  - E) The credit union does not dominate the CUSO to the extent that the CUSO is treated as a department of the credit union; and
  - F) Unless the credit union has guaranteed a loan obtained by the CUSO, all borrowings by the CUSO indicate that the credit union is not liable.
- 2) Prior to a credit union investing in or making a loan to a CUSO, the credit union must obtain written legal advice as to whether the CUSO is established in a manner that will limit potential exposure of the credit union to no more than the loss of funds invested in, or loaned to, the CUSO. In addition, if a CUSO in which a credit union has made an investment or loan plans to change its form of organization under subsection (b)(4) of this Section, the credit union must obtain prior written legal advice that the CUSO will remain established in a manner that will limit potential exposure of the credit union to no more than the loss of funds invested in, or loaned to, the CUSO. The legal advice must address factors that have led courts to "pierce the corporate veil", such as inadequate capitalization, lack of separate corporate identity, common boards of directors and employees, control of one entity over another, and lack of separate books and records. The legal advice may be provided by independent legal counsel of the credit union.
- db) Additional requirements. Approval of applications shall be given in writing within 30 days of receipt of the application. Once it is determined involvement with the CUSO will not adversely affect the credit union's financial position, the determination will be based on the following factors:
  - 1) The CUSO must comply with the definition of a credit union organization as defined by Section 1.1 of the Illinois Credit Union Act [205 ILCS 305/1.1] (Ill. Reg. Stat. 1987, ch. 17, par. 4402).
  - 2) The amount a credit union may invest in and/or loan to a CUSO is



## DEPARTMENT OF FINANCIAL INSTITUTIONS

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subject to Board of Director approval and the following limitations:

A2) Any proposed loan to the CUSO does not cause aggregate loans to credit union organizations, per Section 51(4) of the Illinois Credit Union Act, [205 ILCS 305/51(4)] ~~that~~ ~~the~~ ~~Stat--1987--ch--17--par--4452--(4))~~, to exceed 1% of the paid-in and unimpaired capital and surplus of the credit union.

B3) Any The investment in the CUSO does not cause the aggregate investment in CUSOs to exceed 1% of the paid-in and unimpaired capital and surplus of the credit union in accordance with the statutory limitation on investments in loans to CUSOs.

C) The limit on loans to CUSOs is independent and separate from the limit on investments in CUSOs.

D) "Paid in and unimpaired capital and surplus" means shares, as defined in Section 1.1 of the Illinois Credit Union Act [205 ILCS 305/1.1], and undivided earnings.

E) If the investment limits described in this subsection (d)(2) are reached or exceeded because of the profitability of the CUSO and the related GAAP valuation of the investment under the equity method, without an additional cash outlay by the credit union, divestiture is not required. A credit union may continue to invest up to 1% without regard to the increase in the GAAP valuation resulting from a CUSO's profitability.

34) All dealings between the credit union's directors, officers, employees, their family members or any corporation, partnership, proprietorship or association in which these individuals hold interest and the CUSO are disclosed. Any agreements between these individuals, businesses or associations and the CUSO must be structured to project economic benefit, increased efficiencies and/or cost effective service to the credit union and must not project a detrimental effect on the earnings or sound operation of the credit union. For purposes of this section "family member" means a spouse or a child, parent, grandchild, grandparent, brother or sister, or the spouse of any such individual.

45) All agreements Any--agreement between the credit union and the CUSO must be structured to project economic benefit, increased efficiencies and/or cost effective service to the credit union and must not project a detrimental effect on the earnings or sound operation of the credit union.

e) Prior to investing in or lending to the CUSO, the credit union must enter into a written agreement with the CUSO.

1) The written agreement must contain clauses that state the CUSO will:

A) Provide the Department with complete access to any books and

## DEPARTMENT OF FINANCIAL INSTITUTIONS

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records of the CUSO, with the costs of examining these records borne by the credit union served in accordance with the per diem rate set out in Section 12 of the Act [205 ILCS 305/12].

B) Follow Generally Accepted Accounting Principles (Wiley GAAP, published by John Wiley & Sons, 605 Third Avenue, New York, NY 10158-0012, 1997 edition, no subsequent dates or editions).

C) Provide the credit union with the financial statements of the CUSO on at least a quarterly basis and Certified Public Accountant (CPA) audited financial statements on an annual basis.

2e) The agreement ~~service-contract-between-a-credit--union--and--CUSO~~ must also contain a clause reciting that the parties agree to terminate their contractual ~~contract~~ relationship:

A) Upon 90 days written notice to the parties by the Director that the safety and soundness of the credit union is threatened pursuant to the Department's cease and desist and suspension authority as outlined in Section 8(4), 8(5) and 61 of the Act [205 ILCS 305/8(4) and (5) and 61] ~~that~~ ~~the~~ ~~Stat--1987--ch--17--par--4409--(4) and --(5) and --4462).~~

B) Immediately upon the parties' receipt of written notice from the Director where the Director reasonably concludes based upon specific facts set forth in the notice to the parties that the credit union will suffer immediate, substantial and irreparable injury or loss if it remains a party to the service contract.

3) The termination of the underlying agreement ~~contract~~ between the CUSO and the credit union shall in no way operate to relieve the CUSO of repaying any investment, indebtedness or other obligation due and owing the credit union at the time of termination. Any CUSO that was in existence prior to the effective date of this rule and that was legally operating in a manner that, although inconsistent with this rule, was not in contravention of the Illinois Credit Union Act, may continue its operation until one year from the effective date of this rule.

fd) In recording all transactions with the CUSO, Generally Accepted Accounting Principles (see subsection (e)(1)(B)) ~~as--outlined--by--the Financial--Accounting--Standards--Board--(High--Ridge--Park--Stamford--Connecticut--06905--June-17-1981--This-incorporation-by-reference--does not--include--any--later--amendments)--will~~ shall be followed by the credit union.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF FINANCIAL INSTITUTIONS

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- a) The following are definitions applicable in this Section.
- 1) "Associated Member" means any member with a common ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower.
  - 2) A "Business Loan" is defined as any loan, line of credit, letter of credit, to a member of the credit union, for which the proceeds will be used to finance a commercial, business or agricultural purpose.
  - 3) "Net Worth" "Reserves" means all reserves, including the Reserve for Loan Losses Accounts, and Undivided Earnings or Surplus, excluding the Allowance for Loan Losses Accounts.
  - 4) "Primary Residence" means the address at which one resides.
- b) Nothing in this Section shall be applicable to:
- 1) loans fully secured by shares in the credit union or deposits in other financial institutions.
  - 2) loans in less than an aggregate amount of \$50,000 or less to one member or associated member for which the proceeds may be used for a commercial business or agricultural purpose.
  - 3) loans to credit union service organizations (CUSO) as defined under Section 190.5 of this Part.
  - 4) loans for any one to four family owner-occupied parcel of real estate as long as the borrower/owner maintains the subject property as his primary residence.
  - 5) loans fully secured or fully guaranteed by, or subject to an advance commitment to purchase in full by, an agency of the federal government or of a state or any of its political subdivisions.
  - 6) Loans granted by a credit union to another credit union.
- c) Business loans shall only be granted by credit unions with assets greater than \$5.0 million and only after the Department of Financial Institutions has approved a credit union's request for a business loan amendment to its by-laws. Credit unions with assets greater than \$30 million may make business loans in accordance the request must be accompanied with specific lending policies which shall address, but not be limited to:
- 1) Types of business loans to be made within a designated trade area.
  - 2) Provisions that decisions for business lending be based on prudent lending criteria in assessing the borrower's ability to repay, etc., with appropriate and up-to-date documentation in the file including balance sheets, trend and structure analysis, ratio analysis of cash flow income and expenses, tax data leveraging, updated financial statements, tax returns, etc.
  - 3) Provisions for ensuring the utilization of services of experienced personnel with involved in making and administering business loans requiring at least 2 years of direct related lending experience with the type of business loans the credit union will be making. A credit union may comply with this

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- experience requirement without hiring staff as long as the credit union ensures that the expertise is available. For example, a credit union may use the services of a CUSO, an employee of another credit union, an independent contractor, or other third parties. However, the actual decision to grant a loan must reside with the credit union.
- 4) The aggregate amount of the credit union assets in relation to net worth ~~reserves~~ that will be invested in business loans, and the maximum amount of business loans to any one member or group of associated members, provided it does not exceed the limits as set forth in subsection (e) below.
  - 5) The maximum amount of credit union assets in relation to net worth ~~reserves~~ that will be allotted to given types of business loans.
  - 6) Collateral requirements ~~given that all business loans must be secured.~~
  - 7) Defined interest rates and defined maturities of business loans.
  - 8) Loan monitoring, servicing, and follow-up procedures, including collection procedures.
- d) Business loans shall not be granted by credit unions with assets of \$30 million or less unless the Department of Financial Institutions has approved a credit union's request for a business loan amendment to its bylaws. The request must be accompanied with specific lending policies including but not limited to the criteria listed in subsection (c). All approval of requests shall be based upon the history of the credit union, current financial condition and the adequacy of applicable operating policies as documented in the Department's annual or special examination. Evaluation of the history, current financial condition, and operating policies of the credit union will include, but not be limited to, the credit union's capital adequacy, asset quality, management policies, earnings, and liquidity. These factors must be reflective of a safe and sound financial operation (in accordance with 205 ILCS 305/8, 9, 36 and 61).
- e) Business loans to any one member or group of associated members shall not exceed 15% of the credit union's net worth ~~unions regular reserve excluding the reserve for loan losses account.~~ The amount of business loans is determined by adding the total outstanding balance of business loans to one member or group of associated members and subtracting any portion:
- 1) Secured by shares in the credit union or by deposits in another financial institution;
  - 2) Fully or partially insured or guaranteed by any agency of the federal government, a state or its political subdivisions; and
  - 3) Subject to an advance commitment to purchase by any agency of the federal government, a state or its political subdivisions.
- Credit unions seeking an exception to this limit must request a waiver in writing ~~present in writing the increased limits sought an explanation of the need for increased limits the credit union's~~



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~~previous-business--lending--experience--and--an--up-to-date--financial statement.~~ The maximum limit on a member business loan is in addition to the secured and unsecured limits established in Sections 190.160 and 190.140, provided however, in no event shall all loans to any member exceed in the aggregate 10% of the credit union's unimpaired capital and surplus.

## f) Collateral

1) Unless the Department grants a waiver, all business loans must be secured by collateral as follows:

A) Loan to value (LTV) ratios shall not exceed 80%, unless the loan amount in excess of 80% is covered through private mortgage or equivalent insurance but in no case shall the LTV exceed 95%.

B) With respect to first mortgages, business loans with LTV ratios greater than 80% may be granted if the loan amount in excess of 80% is covered through private mortgage or equivalent insurance, or is insured or guaranteed by or subject to an advance commitment to purchase by any agency of the federal government, a state or its political subdivisions.

2) Credit card line of credit programs offered to nonnatural person members that are limited to routine purposes normally made available under those programs are exempt from the collateral requirement of this subsection (f).

## g) Construction Loans

Unless the Department grants a waiver, loans granted for the construction or development of commercial or residential property are subject to the following additional requirements:

1) The aggregate of all construction and development loans must not exceed 15% of the credit union's net worth. The following loans or portions thereof may be excluded from the calculation of the aggregate:

A) loans secured by shares in the credit union or by deposits in another financial institution;

B) loans fully or partially insured or guaranteed by any agency of the federal government, a state or its political subdivisions; or

C) loans subject to an advance commitment to purchase by any agency of the federal government, a state or its political subdivisions;

2) The borrower must have a minimum of 35% equity interest in the project being financed; and

3) The funds may be released only after on-site, written inspections by qualified personnel and according to a preapproved draw schedule and any other conditions as set forth in the loan documentation.

## h) Request for Waiver

1) Credit unions may request a waiver for a category of business

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loans in the following areas:

A) Maximum loan amounts to one borrower or associated group of borrowers under subsection (e);

B) Collateral requirements under subsection (f);

C) The aggregate amount of construction loans and the minimum equity interest in construction loans under subsection (g); and

D) Any appraisal requirements imposed by Part 190 with respect to loans secured by real estate.

2) A request for a waiver must be submitted in writing to the Department. The waiver request must contain the following:

A) A copy of the credit union's business lending policy;

B) The waiver sought;

C) An explanation of the higher limits sought (if applicable);

D) Documentation supporting the credit union's ability to manage this activity; and

E) An analysis of the credit union's prior experience in making member business loans, including the credit union's history of loan losses and delinquency, volume and cyclical or seasonal patterns, diversification, concentrations of credit to one borrower or group of borrowers in excess of 15% of net worth, underwriting standards and practices, types of loans grouped by purpose and collateral, and the qualifications of personnel responsible for underwriting and administering member business loans.

3) The Department shall respond to requests for waivers as follows:

A) The Department shall inform the credit union in writing of the date the written request for waiver was received.

B) Approval of waivers shall be given in writing within 45 calendar days from receipt of the waiver request and supporting documents listed in subsection (h)(2) of this subsection, if it is determined by the Department that the waiver will not adversely affect the credit union's financial position.

C) If a waiver approved by the Department must also be approved by the National Credit Union Administration (NCUA), the Department shall forward the waiver request and supporting documents to the NCUA Regional Director and provide the credit union with written notice of the date the request was forwarded.

D) If a waiver request does not require NCUA approval, the credit union may assume approval of the waiver request if it does not receive notification within 45 days after the date the request was received by the Department.

i) ~~f~~ Allowance Reserve for Loan Losses ~~(Rbb)~~ for Business Loans-

1) Allowance Reserve for Loan Losses ~~(Rbb)~~ for Business Loans will be determined and accounted for by the credit union as follows:

A) Substandard Loans - A substandard loan is one that is



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payments are being made on a timely basis to the Trustee.

- iii) Receipt of payments on the loan in a Chapter 11 bankruptcy reorganization (11 USC 1101 et seq.) or Chapter 12 bankruptcy family farm reorganization (11 USC 1201 et seq.) within 180 days after the confirmation of the plan.
- iv) Voluntary repayment of the loan pursuant to Section 524(f) of the federal Bankruptcy Code (11 USC 524(f)).
- v) Collection of the loan pursuant to repossession of collateral without judicial process, or by replevin, detinue, forcible entry and detainer or mortgage foreclosure proceedings.
- vi) Collection of the loan pursuant to post-judgment enforcement remedies, including wage deduction, garnishment and turnover orders entered in citation to discover assets supplementary proceedings.
- vii) The entry of a judgment pay plan order providing for repayment of the loan in a judicial proceeding.
- viii) Documented evidence of repayment of that portion of the loan covered by collateral protection or other insurance policies.
- ix) Documentation evidence of periodic payments on a consistent basis in an amount sufficient to retire the loan balance in a reasonable time.

Beitquent-loans	Classification	%-of-Outstanding	
		Balance	Required-in-Rbb
2-to-5-months	--Slow	-----10%	
6-to-11-months	--Doubtful	-----50%	
12-months-and-over	--Loss	-----100%	

2) Non-delinquent loans may also be classified in the above categories by the Department, dependent upon an evaluation of factors, including, but not necessarily limited to, the adequacy of the credit union's analysis and documentation of the loan application, and the credit union's collateral requirements. Subsection (c)(2) above contains analysis and documentation requirements.

- j) Credit unions authorized to make business loans may make member business loans to its directors, officers, credit committee members and supervisory committee members provided that the loan complies with all lawful requirements as set forth in this Section and in Section 52 of the Illinois Credit Union Act and is not on terms more favorable than those extended to other borrowers.
- k) Credit unions authorized to make business loans shall not grant

inadequately protected by the current sound worth and paying capacity of the obligee or of the collateral pledged. Loans classified substandard have a well-defined weakness or weaknesses that jeopardize the liquidation of the debt. They are characterized by the distinct possibility that the credit union will sustain some loss if the deficiencies are not corrected. Loans listed in this category shall generally be listed in a range from zero to under 50% potential loss.

B) Doubtful Loans - A loan classified doubtful has all the weaknesses inherent in a loan classified substandard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions, and values, highly questionable and improbable. The possibility of loss is extremely high, but because of certain important and reasonable specific pending factors that may work to the advantage and strengthening of the loan, its classification as an estimated loss is deferred until a more exact status may be determined. Pending factors include: proposed merger, acquisition, or liquidation actions; capital injection; perfecting liens on collateral; and refinancing plans. Loans in this category shall be listed at a minimum 50% potential loss.

C) Loss Loans - Loans classified loss are considered uncollectible and of such little value that their continuance as loans on the credit union balance sheet is not warranted. This classification does not necessarily mean that the loan has absolutely no recovery or salvage value, but rather, it is not practical or desirable to defer writing off the asset even though partial recovery may occur in the future. Loans in this category shall be listed at 100% potential loss.

D) Loans may be excluded from the "loss loans" category and classified as either substandard or doubtful if there is evidence of collectibility. Evidence of collectibility shall include without limitation the following collection activities and remedies:

- i) Execution and filing of an enforceable reaffirmation agreement on the loan in a Chapter 7 bankruptcy (11 USC 701 et seq.) proceeding prior to completion of the Department's loan analysis in any statutory examination of the credit union.
- ii) Receipt of payments on the loan in a Chapter 13 bankruptcy (11 USC 1301 et seq.) within 180 days after the confirmation of the plan; or, if the plan stipulates repayment of the loan in full but payments have not yet been disbursed to the credit union, the credit union has determined from the Trustee that plan



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member business loans if the amount of income desired/received by the credit union is tied to the profit of the business in the form of an equity participation.

1) Credit unions are prohibited from making business loans where the payment amount fluctuates with the earnings of the business/borrower.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: UIC Permit Program

2) Code citation: 35 Ill. Adm. Code 704

3) Section numbers: Proposed Action:  
704.102 Amend  
704.146 Amend  
704.282 Amend  
704.283 Amend  
704.284 Amend  
704.286 Amend  
704.287 Amend  
704.288 Amend

4) Statutory authority: 415 ILCS 5/7.2, 13, and 27.

5) A complete description of the subjects and issues involved: A more detailed description of this rulemaking is contained in the Board's opinion and order of May 3, 2001, proposing amendments in docket R01-30 for public comment. That opinion and order is available from the address below.

In summary, docket R01-30 addresses certain rules that the Board recently adopted in the consolidated underground injection control (UIC) update dockets UIC Update, USEPA Amendments (July 1, 1999, through December 31, 1999) and UIC Update, USEPA Amendments (January 1, 2000, through June 30, 2000) (December 7, 2000), R00-11/R01-1 (consolidated). The consolidated R00-11/R01-1 dockets adopted amendments that were "identical-in-substance" to amendments adopted by the United States Environmental Protection Agency (USEPA), using the procedure of Sections 7.2 and 13(c) of the Environmental Protection Act [415 ILCS 5/7.2 and 13]. The amendments appeared in the December 22, 2000 issue of the *Illinois Register*, at 24 Ill. Reg. 18612, effective December 7, 2000. Most of the amendments to the Illinois UIC regulations involved in that docket related to the first installment of significant new federal requirements applicable to Class V injection wells. The two types of Class V injection wells affected by the new regulations are large-capacity cesspools and automobile waste disposal wells.

This docket considers concerns raised by the USEPA since the adoption of those amendments. On March 16, 2001, the Board received a copy of a March 12, 2001 letter from David A. Ullrich, Acting Regional Administrator, USEPA Region V, addressed to James Ryan, Attorney General of the State of Illinois. In that letter, USEPA commended the State on being the first in USEPA Region V to adopt the Class V injection well rules. Additionally, USEPA submitted substantive comments on the text of the adopted Class V well rules. USEPA raised two areas of major concern over the rules: four areas of minor concern, and four general observations on the rules. USEPA



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requested that the Attorney General prepare and submit to USEPA within 45 days a supplemental statement on the basis for the rule in the specified areas of concern. In docket R01-30, the Board considers the concerns raised by USEPA and proposes for public comment amendments to the Class V injection rules designed to eliminate any questions as to whether the Illinois rules are truly "identical-in-substance" to the federal rules on which they are based.

The Board will receive public comment on the proposed amendments for 45 days from the date they appear in the *Illinois Register* before proceeding to adopt amendments based on this proposal.

The Board also proposes a series of minor corrections to the text of the regulations. The following table outlines all the amendments involved in this docket and indicates the source of each amendment. All for which the source is indicated as the Board are minor "housekeeping" corrections not prompted by the USEPA letter, but of the type the Board routinely makes.

Section	Source	Revision(s)
704.102	USEPA	Changed the statement that about the elimination of Class IV injection wells to a statement about the prohibition of those wells
704.102	Board	Changed the statement about the future regulation of Class V injection wells to a statement about their regulation under Subpart I; added "prior to . . . injection well to the statement about remedial action involving Class V injection wells
704.102 Board note	Board	Updated the reference to the Code of Federal Regulations to the 2000 edition and deleted the citation to the Federal Register
704.146	USEPA	Changed the statement about injection authorized by rule to a statement about the well authorized by rule

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704.146 Board note	Board	Updated the reference to the Code of Federal Regulations to the 2000 edition and deleted the citation to the Federal Register
704.282(a)(2)	USEPA	Changed "the Agency or USEPA" to "the Agency" (twice)
704.282(d)	USEPA	Changed "the Agency or USEPA" to "the Agency"; changed "the Agency and USEPA Region V have" to "the Agency has"; deleted the reference to "and 40 CFR 144 through 147"; changed "the Agency or USEPA Region V" to "the Agency"
704.282 Board note	Board	Updated the reference to the Code of Federal Regulations to the 2000 edition and deleted the citation to the Federal Register
704.283(a)(2)(C)(i)	USEPA	Deleted the parenthetical "or by latitude . . . nearest second"; changed "conventional practice in this State" to "U.S. Land Survey System"
704.283 Board note	Board	Updated the reference to the Code of Federal Regulations to the 2000 edition and deleted the citation to the Federal Register
704.284(b)	USEPA	Changed "the Agency or USEPA Region V" to "the Agency"



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704.284(b)(1)	USEPA	Changed "the Agency or USEPA Region V" to "the Agency"
704.284(b)(2)	Board	Changed "ground water" to "groundwater" (twice)
704.284(b)(2) Board note	Board	Updated the reference to the Code of Federal Regulations to the 2000 edition and deleted the citation to the Federal Register
704.284(b)(3)	USEPA	Changed "the Agency or USEPA Region V" to "the Agency"
704.284 Board note	Board	Updated the reference to the Code of Federal Regulations to the 2000 edition and deleted the citation to the Federal Register
704.286 "complete local . . . areas"	USEPA	Changed "the State will develop its own plan for making" to "The Agency must make"; added a Board note referencing the Illinois Source Water Assessment Program
704.286 Board note	Board	Updated the reference to the Code of Federal Regulations to the 2000 edition and deleted the citation to the Federal Register
704.287(a)	Board	Changed "ground water" to "groundwater" (twice)
704.287(a)	USEPA	Added a statement on the effect of a State failure to identify the protected areas

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704.287(a) Board note	USEPA	Deleted "further, the Board . . . because"
704.287(b)	Board	Changed "ground water" to "groundwater"
704.287(b)(1)	Board	Changed "ground water" to "groundwater" (four times)
704.287(b)(1)(A)	Board	Changed "ground water" to "groundwater"
704.287(b)(1)(B)	Board	Changed "ground water" to "groundwater" (three times)
704.287(b)(2)	USEPA	Added "and the extension . . . compliance option"
704.287(c)	Board	Changed "ground water" to "groundwater" (three times)
704.287(c)	USEPA	Added "If the State . . . this Section."
704.287(c) Board note	USEPA	Deleted "finally, the Board . . . because"
704.287(e)	Board	Changed "ground water" to "groundwater" (three times)
704.287(e)	USEPA	Added "and the extension . . . compliance option"
704.287(f)	Board	Changed "ground water" to "groundwater" (twice)
704.287(g)	Board	Changed "ground water" to "groundwater"
704.287 Board note	Board	Updated the reference to the Code of Federal Regulations to the 2000 edition and deleted the citation to the Federal Register
704.288(b)(1)(A)	Board	Changed "ground water" to "groundwater"



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704.288(b)(1)(A)	USEPA	Added "and the extension . .. compliance option"
704.288(b)(1)(B)	USEPA	Added "and the extension . .. compliance option"
704.288(b)(1)(E)	USEPA	Added "and the extension . .. compliance option"
704.288(b)(1)(F)	Board	Changed "ground water" to "groundwater" (three times)
704.288 Board note	Board	Updated the reference to the Code of Federal Regulations to the 2000 edition and deleted the citation to the Federal Register

Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this identical-in-sentence rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this part? No
- 10) Statement of statewide policy objectives: This rulemaking imposes mandates on units of local government to the extent they own or operate an underground injection well. These mandates are, however, identical-in-substance to mandates imposed by federal law.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R01-30 and be addressed to:

Ms. Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center, Suite 11-500

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100 W. Randolph St.  
Chicago IL 60601

Please direct inquiries to the following person and reference Docket R01-30:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601  
Phone: 312-814-6924  
E-mail: mccambm@ipcb.state.il.us

Request copies of the Board's opinion and order from Linda Webster, at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

12) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking affects those small businesses, small municipalities, and not-for-profit corporations that own or operate an underground injection well. Specifically, the amendments will affect those entities that own or operate certain Class V injection wells: large-capacity cesspools and automotive waste disposal wells. The Board does not anticipate that the present amendments will significantly affect the burden of complying with the existing rules.

B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.

C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

13) Regulatory agenda on which this rulemaking was summarized: The present rulemaking proposes corrections to regulatory amendments adopted in consolidated UIC update dockets R00-11 and R01-1. Although the present rulemaking did not appear in a regulatory agenda, since the Board could not anticipate the USEPA letter which prompts them, the rulemaking docket R00-11 was summarized in the January 2000 Semiannual Regulatory Agenda published at 24 Ill. Reg. 1303, 1349 on January 21, 2000, and the



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rulemaking docket R01-1 was summarized in the July 2000 Semiannual Regulatory Agenda published at 24 Ill. Reg. 11350, 11392 on July 28, 2000.

The full text of the Proposed Amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE G: WASTE DISPOSAL  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER b: PERMITS

## PART 704

## UIC PERMIT PROGRAM

## SUBPART A: GENERAL PROVISIONS

Section	Content
704.101	Scope of the Permit or Rule Requirement
704.102	Identification of Aquifers
704.103	Exempted Aquifers
704.104	Specific Inclusions and Exclusions
704.105	Classification of Injection Wells
704.106	Definitions
704.107	

## SUBPART B: PROHIBITIONS

Section	Content
704.121	Prohibition of Unauthorized Injection
704.122	Prohibition of Movement of Fluid into USDW
704.123	Identification of USDW and Exempted Aquifers
704.124	Prohibition of Class IV Wells

## SUBPART C: AUTHORIZATION OF UNDERGROUND INJECTION BY RULE

Section	Content
704.141	Existing Class I and III Wells
704.142	Prohibitions on Injection into Wells Authorized by Rule
704.143	Expiration of Authorization
704.144	Requirements
704.145	Existing Class IV Wells
704.146	Class V Wells
704.147	Requiring a Permit
704.148	Inventory Requirements
704.149	Requiring other Information
704.150	Requirements for Class I and III Wells authorized by Rule
704.151	RCRA Interim Status for Class I Wells

## SUBPART D: APPLICATION FOR PERMIT

Section	Content
704.161	Application for Permit; Authorization by Permit
704.162	Area Permits
704.163	Emergency Permits



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704.164 Signatories to Permit Applications

## SUBPART E: PERMIT CONDITIONS

Section  
704.181 Additional Conditions  
704.182 Establishing UIC Permit Conditions  
704.183 Construction Requirements  
704.184 Corrective Action  
704.185 Operation Requirements  
704.186 Hazardous Waste Requirements  
704.187 Monitoring and Reporting  
704.188 Plugging and Abandonment  
704.189 Financial Responsibility  
704.190 Mechanical Integrity  
704.191 Additional Conditions  
704.192 Waiver of Requirements by Agency  
704.193 Corrective Action  
704.194 Maintenance and Submission of Records

SUBPART F: REQUIREMENTS FOR WELLS INJECTING  
HAZARDOUS WASTE

Section  
704.201 Applicability  
704.202 Authorization  
704.203 Requirements

SUBPART G: FINANCIAL RESPONSIBILITY FOR CLASS I  
HAZARDOUS WASTE INJECTION WELLS

Section  
704.210 Applicability  
704.211 Definitions  
704.212 Cost Estimate for Plugging and Abandonment  
704.213 Financial Assurance for Plugging and Abandonment  
704.214 Trust Fund  
704.215 Surety Bond Guaranteeing Payment  
704.216 Surety Bond Guaranteeing Performance  
704.217 Letter of Credit  
704.218 Plugging and Abandonment Insurance  
704.219 Financial Test and Corporate Guarantee  
704.220 Multiple Financial Mechanisms  
704.221 Financial Mechanism for Multiple Facilities  
704.222 Release of the Owner or Operator  
704.230 Incapacity  
704.240 Wording of the Instruments

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## SUBPART H: ISSUED PERMITS

Section  
704.260 Transfer  
704.261 Modification  
704.262 Causes for Modification  
704.263 Well Siting  
704.264 Minor Modifications

## SUBPART I: REQUIREMENTS FOR CLASS V INJECTION WELLS

Section  
704.279 General  
704.280 Definition of a Class V Injection Well  
704.281 Examples of Class V Injection Wells  
704.282 Protection of Underground Sources of Drinking Water  
704.283 Notification of a Class V Injection Well  
704.284 Permit Requirements  
704.285 Applicability of the Additional Requirements  
704.286 Definitions  
704.287 Location in a Groundwater Protection Area or Another Sensitive Area  
704.288 Additional Requirements  
704.289 Closure of a Class V Injection Well

AUTHORITY: Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4, and 27].

SOURCE: Adopted in R81-32, at 47 PCB 95, at 6 Ill. Reg. 12479, effective March 3, 1984; amended in R82-19, at 7 Ill. Reg. 14402, effective March 3, 1984; amended in R83-39, at 55 PCB 319, at 7 Ill. Reg. 17338, effective December 19, 1983; amended in R85-23 at 10 Ill. Reg. 13290, effective July 29, 1986; amended in R87-29 at 12 Ill. Reg. 6687, effective March 28, 1988; amended in R88-2 at 12 Ill. Reg. 13700, effective August 16, 1988; amended in R88-17 at 13 Ill. Reg. 478, effective December 30, 1988; amended in R89-2 at 14 Ill. Reg. 3116, effective February 20, 1990; amended in R94-17 at 18 Ill. Reg. 17641, effective November 23, 1994; amended in R94-5 at 18 Ill. Reg. 18351, effective December 20, 1994; amended at R00-11/R01-1 at 24 Ill. Reg. 18612, effective December 7, 2000; amended in R01-30 at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

## Section 704.102 Scope of the Permit or Rule Requirement

Although five classes of wells are set forth in Section 704.106, the UIC (Underground Injection Control) permit program described in 35 Ill. Adm. Code 702, 704, 705, and 730 regulates underground injection for only four classes of wells (see definition of "well injection," 35 Ill. Adm. Code 702.110). Class



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II wells (Section 704.106(b)) are not subject to the requirements found in 35 Ill. Adm. Code 702, 704, 705, and 730. The UIC permit program for Class II wells is regulated by the Illinois Department of Natural Resources, Office of Mines and Minerals, Oil and Gas Division, pursuant to the Illinois Oil and Gas Act [225 ILCS 725] (see 62 Ill. Adm. Code 240). All owners or operators of Class I, Class III, Class IV, or Class V injection wells must be authorized either by permit or rule. In carrying out the mandate of the SDWA, this Part provides that no injection must be authorized by permit or rule if it results in movement of fluid containing any contaminant into underground sources of drinking water (USDWs) (Section 704.122) if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR 142 or may adversely affect the health of persons. (Section 704.122). Section 704.124 prohibits the construction, operation, or maintenance of a Class IV injection well. Existing ~~Class IV wells that inject hazardous waste directly into an underground source of drinking water are to be eliminated over a period of six months and new such Class IV wells are to be prohibited~~ (Section 704.124). Class V wells ~~are regulated under Subpart I of this Part will be inventoried and assessed, and regulatory action will be established at a later date. If in the meantime, if remedial action appears necessary prior to the establishment of regulations directly applicable to a specific type of Class V injection well, an individual permit may be required (Subpart C of this Part) or the Agency must require remedial action or closure by order (Section 704.122(c)).~~

BOARD NOTE: Derived from 40 CFR 144.1(g) preamble (2000) (1999).

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 704.146 Class V Wells

- a) ~~A injection into Class V well wells~~ is authorized by rule, subject to the conditions set forth in Section 704.284.
- b) Duration of well authorization by rule. Well authorization under this Section expires upon the effective date of a permit issued pursuant to any of Sections 704.147, 704.161, 704.162, or 704.163.
- c) Prohibition of injection. An owner or operator of a well that is authorized by rule pursuant to this Section is prohibited from injecting into the well:
  - 1) Upon the effective date of an applicable permit denial;
  - 2) Upon a failure to submit a permit application in a timely manner pursuant to Section 704.147 or 704.161;
  - 3) Upon a failure to submit inventory information in a timely manner pursuant to Section 704.148; or
  - 4) Upon a failure to comply with a request for information in a timely manner pursuant to Section 704.149.

BOARD NOTE: Derived from 40 CFR 144.24 (2000) (1999) as amended at 64 Fed. Reg. 68566 (Dec. 7, 1999).

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(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART I: REQUIREMENTS FOR CLASS V INJECTION WELLS

## Section 704.282 Protection of Underground Sources of Drinking Water

This Subpart I requires that an owner or operator of a Class V injection well must not allow movement of fluid into USDWs that might cause endangerment, that the owner or operator must comply with the UIC requirements in this Part and 35 Ill. Adm. Code 702 and 730, that the owner or operator must comply with any other measures required by the State or USEPA to protect USDWs, and that the owner or operator must properly close its well when the owner or operator is through using it. The owner or operator also must submit basic information about its well, as described in Section 704.283.

- a) Prohibition of fluid movement.
  - 1) As described in Section 704.122(a), an owner's or operator's injection activity cannot allow the movement of fluid containing any contaminant into USDWs if the presence of that contaminant may cause a violation of the primary drinking water standards under 35 Ill. Adm. Code 611, may cause a violation of other health based standards, or may otherwise adversely affect the health of persons. This prohibition applies to the owner's or operator's well construction, operation, maintenance, conversion, plugging, closure, or any other injection activity.
  - 2) If the Agency ~~or USEPA~~ learns that an owner's or operator's injection activity may endanger USDWs, the Agency ~~or USEPA~~ may require the owner or operator to close its well, require the owner or operator to get a permit, or require other actions listed in Section 704.122(c), (d), or (e).
- b) Closure requirements. An owner or operator must close the well in a manner that complies with the above prohibition of fluid movement. Also, the owner or operator must dispose or otherwise manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to its well in accordance with all applicable federal, State, and local regulations and requirements.
- c) Other requirements in this Part and 35 Ill. Adm. Code 702 and 730. Beyond this Subpart, the owner and operator are subject to other UIC program requirements in this Part and 35 Ill. Adm. Code 702 and 730. While most of the relevant requirements are repeated or referenced in this Subpart for convenience, the owner or operator needs to read all of this Part and 35 Ill. Adm. Code 702 and 730 to understand the entire UIC program.
- d) Other State ~~or USEPA~~ requirements. This Part and 35 Ill. Adm. Code 702 and 730 define minimum federally-derived UIC requirements. The Agency has ~~and USEPA Region V have~~ the flexibility to establish additional or more stringent requirements based on the authorities in this Part and 35 Ill. Adm. Code 702 and 730 ~~and 40 CFR 144 through~~



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147, if such additional requirements are determined to be necessary to protect USDWs. The owner and operator must comply with any such additional requirements. The owner or operator should contact the Agency or USEPA-Region-V to learn more.

BOARD NOTE: Derived from 40 CFR 144.82 (2000) 7-as-added-at-64-Ped--Reg--68567  
(December-77-1999).

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 704.283 Notification of a Class V Injection Well

The owner or operator of a Class V injection well needs to provide basic "inventory information" about its well to the Agency, if the owner or operator has not done so already. The owner or operator also needs to provide any additional information that the Agency requests in accordance with the provisions of the UIC regulations.

- a) Inventory required. Unless the owner or operator knows it has already satisfied the inventory requirements in Section 704.128 that were in effect prior to the issuance of this Subpart I, the owner or operator must give the Agency certain information about itself and its injection operation.

BOARD NOTE: This information is requested on national form "Inventory of Injection Wells," OMB No. 2040-0042.

- 1) The owner or operator of a new or existing Class V injection well must contact the Agency to determine what information it must submit and by when it must submit that information.
- 2) The following is the information that the owner or operator must submit:

- A) No matter what type of Class V well is owned or operated, the owner or operator must submit at least the following information for each Class V well: facility name and location; name and address of a legal contact person for the facility; the ownership of the facility; the nature and type of the injection well or wells; and the operating status of the injection well or wells.

- B) Illinois is designated a "Privacy State" by USEPA. Corresponding 40 CFR 144.83(a)(2)(ii) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.

- C) The owner or operator must provide a list of all wells it owns or operates, along with the following information for each well. (A single description of wells at a single facility with substantially the same characteristics is acceptable.)

- i) The location of each well or project given by Township, Range, Section, and Quarter-Section, or by

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latitude--and--longitude--to--the--nearest--second--according to the U.S. Land Survey System conventional practice--in--this--State;

- ii) The date of completion of each well;
  - iii) The identification and depth of the underground formation(s) into which each well is injecting;
  - iv) The total depth of each well;
  - v) A construction narrative and schematic (both plan view and cross-sectional drawings);
  - vi) The nature of the injected fluids;
  - vii) The average and maximum injection pressure at the wellhead;
  - viii) The average and maximum injection rate; and
  - ix) The date of the last inspection.
- 3) The owner and operator is responsible for knowing about, understanding, and complying with these inventory requirements.
  - b) Illinois is designated a "Privacy State" by USEPA. Corresponding 40 CFR 144.83(b) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.

BOARD NOTE: Derived from 40 CFR 144.837--as-added--at--64--Ped--Reg--68567  
(December-77-1999).

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 704.284 Permit Requirements

No permit is required for a Class V injection well, unless the owner or operator falls within an exception described in subsection (b) of this Section.

- a) General authorization by rule. With certain exceptions listed in subsection (b) of this Section, an owner's or operator's Class V injection activity is "authorized by rule," meaning that the owner and operator has to comply with all the requirements of this Subpart and the rest of this Part and 35 Ill. Adm. Code 702 and 730, but the owner or operator does not need to get an individual permit. Well authorization expires once the owner or operator has properly closed its well, as described in Section 704.282(b).

- b) Circumstances in which permits or other actions are required. If an owner or operator fits into one of the categories listed below, its Class V well is no longer authorized by rule. This means that the owner or operator has to either get a permit or close its injection well. The owner or operator can find out whether its well falls into one of these categories by contacting the Agency or USEPA-Region-V. Subparts D and H of this Part tell an owner or operator how to apply for a permit and describe other aspects of the permitting process. Subpart C of 35 Ill. Adm. Code 702 and Subpart E of this Part outline some of the requirements that apply to the owner or operator if it



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new approach to protecting drinking water sources, specified in section 1453 of the 1996 Amendments to the Safe Drinking Water Act (42 USC 300j-13).

BOARD NOTE: Under the federal requirements, states must prepare and submit for USEPA approval a program that sets out how each state will conduct local assessments, including the following: delineating the boundaries of areas providing source waters for public water systems; identifying significant potential sources of contaminants in such areas; and determining the susceptibility of public water systems in the delineated areas to the inventoried sources of contamination. The Illinois Groundwater Protection Act [415 ILCS 55] and the regulations at 35 Ill. Adm. Code 620 adopted pursuant to that law and Sections 14.1 through 14.6 and 17.1 through 17.4 of the Environmental Protection Act [415 ILCS 14.1- 14.6 and 17.1-17.4] and the regulations at 35 Ill. Adm. Code 615 through 617 adopted under those provisions are major segments of the required Illinois program.

"Complete local source water assessment for groundwater protection areas." When USEPA has approved a state's drinking water source assessment and protection program, the state will begin to conduct local assessments for each public water system in that state. For the purposes of this Subpart, local assessments for community water systems and non-transient non-community systems are complete when the four following requirements are met:

The State must delineate the boundaries of the assessment area for community and non-transient non-community water systems, as such are defined in 35 Ill. Adm. Code 611.101;

The State must identify significant potential sources of contamination in these delineated areas;

The State must determine the susceptibility of community and non-transient non-community water systems in the delineated area to such contaminants; and

The Agency must make the completed assessments available to the public.

BOARD NOTE: The Agency administers the "Illinois Source Water Assessment and Protection Program," which is intended to comply with the federal source water assessment requirements of SDWA Section 1453 (42 USC 300j-13).

The State will develop its own plan for making the completed assessments available to the public.

"Groundwater protection area" is a geographic area near or surrounding

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gets a permit. An owner or operator must either obtain a permit or close its injection well if any of the following is true:

- 1) The owner or operator fails to comply with the prohibition against fluid movement in Section 704.122(a) and described in Section 704.282(a) (in which case, the owner or operator must get a permit, close its well, or comply with other conditions determined by the Agency or USEPA Region V);
  - 2) The Class V injection well is a large-capacity cesspool (in which case, the owner or operator must close its well as specified in the additional requirements set forth in Section 704.288) or the Class V injection well is a motor vehicle waste disposal well in a groundwater ground-water protection area or a sensitive groundwater ground-water area (in which case, the owner or operator must either close its well or get a permit as specified in the additional requirements set forth in Section 704.288).
- New motor vehicle waste disposal wells and new cesspools are prohibited;

BOARD NOTE: A new motor vehicle waste disposal well or a new cesspool is one for which construction had not commenced prior to April 5, 2000. See 40 CFR 144.84(a)(2) (2000) 7-as-added-at-40 CFR-60560-(December-77-1999).

- 3) The owner or operator is specifically required by the Agency or USEPA Region V to get a permit (in which case, the authorization by rule expires on the effective date of the permit issued, or the owner or operator is prohibited from injecting into its well upon the occurrence of either of the following:

A) The failure of the owner and operator to submit a permit application in a timely manner, as specified in a notice from the Agency; or

B) The effective date of a permit denial;

- 4) The owner or operator has failed to submit inventory information to the Agency, as described in Section 704.283(a) (in which case, the owner and operator is prohibited from injecting into the well until it complies with the inventory requirements); or

- 5) Illinois is designated a "Privacy State" by USEPA. Corresponding 40 CFR 144.84(b)(5) relates exclusively to "Direct Implementation" states, so the Board has omitted it. This statement maintains structural consistency with the federal regulations.

BOARD NOTE: Derived from 40 CFR 144.84 (2000) 7-as-added-at-64-Fed.-Reg.-60560 (December-77-1999).

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 704.286 Definitions

"State drinking water source assessment and protection program" is a



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a community or non-transient non-community water system, as defined in 35 Ill. Adm. Code 611.101, that uses groundwater as a source of drinking water. For the purposes of this Subpart I, the Board considers a "setback zone," as defined in Section 3.61 of the Act [415 ILCS 5/3.61] and regulated pursuant to Sections 14.1 through 14.6 of the Act [415 ILCS 5/14.1-14.6], to be a groundwater protection area," as intended by corresponding 40 CFR 144.86(c). (See 35 Ill. Adm. Code 615 and 616.) These areas receive priority for the protection of drinking water supplies and federal law requires the State to delineate and assess these areas under section 1453 of the federal Safe Drinking Water Act, 42 USC 300j-13. The additional requirements in Section 704.288 apply to an owner or operator if its Class V motor vehicle waste disposal well is in a groundwater protection area for either a community water system or a non-transient non-community water system.

BOARD NOTE: USEPA stated in corresponding 40 CFR 144.86(c) that in many states these areas will be the same as wellhead protection areas delineated as described in section 1428 of the federal SDWA, 42 USC 300h-7.

"Community water system", as defined in 35 Ill. Adm. Code 611.101, is a public water system that serves at least 15 service connections used by year-round residents or which regularly serves at least 25 year-round residents.

"Non-transient non-community water system", as defined in 35 Ill. Adm. Code 611.101, is a water system that is not a community water system and which regularly serves at least 25 of the same people over six months a year. These may include systems that provide water to schools, day care centers, government or military installations, manufacturers, hospitals or nursing homes, office buildings, and other facilities.

"Delineation". Once the State's drinking water source assessment and protection program is approved by USEPA, the State will begin delineating its local assessment areas. "Delineation" is the first step in the assessment process in which the boundaries of groundwater protection areas are identified.

"Other sensitive groundwater areas". The State may also identify other areas in the State in addition to groundwater protection areas that are critical to protecting underground sources of drinking water from contamination. For the purposes of this Subpart I, the Board considers a "regulated recharge area," as defined in Section 3.67 of the Act [415 ILCS 5/3.67] and regulated pursuant to Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], to be an "other sensitive groundwater area," as intended by corresponding 40 CFR 144.86(g). (See 35 Ill. Adm. Code 615 through 617.) These other

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sensitive groundwater areas may include areas such as areas overlying sole-source aquifers; highly productive aquifers supplying private wells; continuous and highly productive aquifers at points distant from public water supply wells; areas where water supply aquifers are recharged; karst aquifers that discharge to surface reservoirs serving as public water supplies; vulnerable or sensitive hydrogeologic settings, such as glacial outwash deposits, eolian sands, and fractured volcanic rock; and areas of special concern selected based on a combination of factors, such as hydrogeologic sensitivity, depth to groundwater, significance as a drinking water source, and prevailing land-use practices.

BOARD NOTE: Derived from 40 CFR 144.86 (2000) ~~7-as-added-at-64-Ped-Reg--68569--(December-77-1999).~~

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 704.287 Location in a Groundwater Protection Area or Another Sensitive Area

- a) A person is subject to the requirements of Section 704.288 if the person owns or operates an existing motor vehicle well and that person is located in a groundwater ~~ground-water~~ protection area or another sensitive ~~groundwater~~ ~~ground--water~~ area. If the State fails to identify these areas within the federally-specified time frames, the additional requirements of Section 704.288 will apply to all existing motor vehicle waste disposal wells within this State.
- BOARD NOTE: Corresponding 40 CFR 144.87(a) provides that the "new requirements" apply statewide if the state or the USEPA Region fails to identify sensitive groundwater areas. The Board has interpreted "new requirements" as synonymous with "additional requirements" elsewhere in this Subpart I. ~~Further, the Board has not included this statewide applicability provision because Sections 14.1 through 14.6 and 17.1 through 17.4 of the Act [415 ILCS 5/14.1-14.6 and 17.1-17.4] and 35 Ill. Adm. Code 615 through 617 designate protected groundwater resources and allow the designation of other sensitive areas for protection. Further, the Illinois Groundwater Protection Act [415 ILCS 55], and the regulations adopted as 35 Ill. Adm. Code 620 under that statute, protect the quality of all groundwater resources in Illinois.~~
- b) ~~Groundwater~~ ~~Ground--water~~ protection areas. Many segments of corresponding 40 CFR 144.87(b) set forth requirements applicable to the State only. Other requirements apply to the regulated community contingent on the regulatory status of the Illinois groundwater protection program. The Board codifies the requirements applicable to the State in this subsection (b) for the purpose of informing the regulated public and clarifying the requirements on the regulated community.



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1) For the purpose of this Subpart, USEPA requires States to complete all local source water assessments for groundwater ~~ground--water~~ protection areas by January 1, 2004. Once a local assessment for a ~~groundwater~~ ~~ground--water~~ protection area is complete every existing motor vehicle waste disposal well owner in that ~~groundwater~~ ~~ground--water~~ protection area has one year to close the well or receive a permit. If the State fails to complete all local assessments for ~~groundwater~~ ~~ground--water~~ protection areas by January 1, 2004, the following may occur:

A) The new requirements in this Subpart I will apply to all existing motor vehicle waste disposal wells in the State and the owner and operator of a motor vehicle waste disposal well located outside of the areas of the completed area assessments for ~~groundwater~~ ~~ground--water~~ protection areas must close their well or receive a permit by January 1, 2005.

B) USEPA may grant a state an extension for up to one year from the January 1, 2004 deadline if the state is making reasonable progress toward completing the source water assessments for ~~groundwater~~ ~~ground--water~~ protection areas. States must apply for the extension by June 1, 2003. If a state fails to complete the assessments for the remaining ~~groundwater~~ ~~ground--water~~ protection areas by the extended date, the rule requirements will apply to all motor vehicle waste disposal wells in the state, and owners and operators of motor vehicle waste disposal wells located outside of ~~groundwater~~ ~~ground--water~~ protection areas with completed assessments must close their well or receive a permit by January 1, 2006.

2) The Agency must extend the compliance deadline for specific motor vehicle waste disposal wells for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.

BOARD NOTE: Any Agency determination of the most efficient compliance option is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

c) Other sensitive ~~groundwater~~ ~~ground--water~~ areas. Existing motor vehicle waste disposal well owners and operators within other sensitive ~~groundwater~~ ~~ground--water~~ areas have until January 1, 2007 to receive a permit or close the well. If the State fails to identify these additional sensitive ~~groundwater~~ areas by January 1, 2004, the additional requirements of Section 704.288 will apply to all motor vehicle waste disposal wells in the State effective January 1, 2007, unless they are subject to a different compliance date pursuant to subsection (b) of this Section. If USEPA has granted the State an extension of the time to delineate sensitive ~~groundwater~~ ~~ground--water~~

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areas, the owner or operator of an existing motor vehicle waste disposal well within a sensitive ~~groundwater~~ ~~ground--water~~ area has until January 1, 2008 to close the well or receive a permit, unless the owner or operator is subject to a different compliance date pursuant to subsection (b) of this Section. If the State has been granted an extension and fails to delineate sensitive areas by the extended date, an owner or operator has until January 1, 2008 to close the well or receive a permit, unless it is subject to a different compliance date pursuant to subsection (b) of this Section.

BOARD NOTE: Corresponding 40 CFR 144.87(c) provides that the State has until January 1, 2004 to identify sensitive ~~groundwater~~ areas. It also provides that USEPA may extend that deadline for up to an additional year if the State is making reasonable progress towards identifying such areas and the State has applied for the extension by June 1, 2003. The Board has not included these provisions relating to deadlines for State action because they impose requirements on the State, rather than on regulated entities. Further, the corresponding federal rule provides that the "new requirements" apply statewide if the State or the USEPA Region fails to identify sensitive ~~groundwater~~ areas and that "the rule requirements" apply in the event of an extension granted by USEPA and the State fails to delineate sensitive areas. The Board has interpreted "new requirements" and "rule requirements" as synonymous with "additional requirements" as used elsewhere in this Subpart I. ~~Finally, the Board has not included this statewide applicability provision because Sections 17.1 through 17.4 of the Act [415 ILCS 5/17.1-17.4], Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8], and 35 Ill. Adm. Code 615 through 620 protect groundwater resources and allow the designation of sensitive areas.~~

d) Finding out if a well is in a ~~groundwater~~ protection area or sensitive ~~groundwater~~ area. The Agency must make that listing available for public inspection and copying upon request. Any interested person may contact the Illinois Environmental Protection Agency, Bureau of Water, Division of Public Water Supplies at 1021 North Grand Ave. East, P.O. Box 19276, Springfield, Illinois 62794-9276 (217-785-8653) to obtain information on the listing or to determine if any Class V injection well is situated in a ~~groundwater~~ protection area or another sensitive ~~groundwater~~ area.

e) Changes in the status of the State drinking water source assessment and protection program. If the State assesses a ~~groundwater~~ ~~ground~~ ~~water~~ protection area for ~~groundwater~~ ~~ground--water~~ supplying a new community water system or a new non-transient non-community water system after January 1, 2004, or if the State re-delineates the boundaries of a previously delineated ~~groundwater~~ ~~ground--water~~ protection area to include an additional area, the additional regulations of Section 704.288 would apply to any motor vehicle waste disposal well in such an area. The additional regulations apply to the affected Class V injection well one year after the State completes



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the local assessment for the groundwater ground-water protection area for the new drinking water system or the new re-delineated area. The Agency must extend this deadline for up to one year if it determines that the most efficient compliance option for the well is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option.

BOARD NOTE: Any Agency determination of the most efficient compliance option is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

f) If the State elects not to delineate the additional sensitive groundwater ground-water areas, the additional regulations of Section 704.288 apply to all Class V injection wells in the State, regardless of the location, on January 1, 2007, or January 1, 2008 if an extension has been granted as provided in subsection (c) of this Section, except for wells in groundwater ground-water protection areas that are subject to different compliance deadlines explained in subsection (b) of this Section.

g) Application of requirements outside of groundwater protection areas and sensitive groundwater ground-water areas. The Agency must apply the additional requirements in Section 704.288 to an owner or operator, even if the owner's or operator's well is not located in the areas listed in subsection (a) of this Section, if the Agency determines that the application of those additional requirements is necessary to protect human health and the environment.

BOARD NOTE: Any Agency determination to apply the additional requirements of Section 704.288 is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40]. The Board has omitted certain segments of corresponding 40 CFR 144.87 that encouraged State actions, since those segments did not impose requirements on the regulated community.

BOARD NOTE: Derived from 40 CFR 144.87 (2000) ~~7-as-added-at-64--Fed--Reg-68569-(December-77-1999)~~.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 704.288 Additional Requirements

Additional requirements are as follows:

a) Additional Requirements for Large-Capacity Cesspools Statewide. See Section 704.285 to determine the applicability of these additional requirements.

1) If the cesspool is existing (operational or under construction by April 5, 2000):

- A) The owner or operator must close the well by April 5, 2005.
- B) The owner or operator must notify the Agency of its intent to close the well at least 30 days prior to closure.

BOARD NOTE: This information is requested on the federal

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form entitled "Preclosure Notification for Closure of Injection Wells," available from the Agency on request.

2) If the cesspool is new or converted (construction not started before April 5, 2000) it is prohibited.

BOARD NOTE: Corresponding 40 CFR 144.88(b)(2) sets forth a federal effective date of April 5, 2000 for the prohibition.

b) Additional Requirements for Motor Vehicle Waste Disposal Wells. See Section 704.285 to determine the applicability of these additional requirements.

1) If the motor vehicle waste disposal well is existing (operational or under construction by April 5, 2000) the following applies:

A) If the well is in a groundwater ground-water protection area, the owner or operator must close the well or obtain a permit within one year after the completion of the local source water assessment; the Agency must extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;

B) If the well is in an other sensitive groundwater area, the owner or operator must close the well or obtain a permit by January 1, 2007; the Agency may extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;

C) If the owner or operator plans to seek a waiver from the ban

and apply for a permit by the date the owner or operator submits its permit application, the owner or operator must meet the maximum contaminant levels (MCLs) for drinking water, set forth in 35 Ill. Adm. Code 611, at the point of injection while the permit application is under review, if the owner or operator chooses to keep operating the well;

D) If the owner or operator receives a permit, the owner or operator must comply with all permit conditions by the dates specified in its permit, if the owner or operator chooses to keep operating the well, including requirements to meet MCLs and other health based standards at the point of injection, follow best management practices, and monitor the injectate and sludge quality;

E) If the State has not completed all of its local assessments by January 1, 2004 (or by the extended date if the State has obtained an extension, as described in Section 704.287), and the well is outside an area with a completed assessment, the owner or operator must close the well or obtain a permit by January 1, 2005, unless the State obtains an extension, as



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described in Section 704.287(b), in which case the deadline is January 1, 2006; the Agency must extend the closure deadline, but not the permit application deadline, for up to one year if it determines that the most efficient compliance option is connection to a sanitary sewer or installation of new treatment technology and the extension is necessary to implement the compliance option;

- F) If the State has not delineated other sensitive groundwater ~~ground--water~~ areas by January 1, 2004, and the well is outside of an area with a completed assessment, the owner or operator must close the well or obtain a permit regardless of its location by January 1, 2007, unless the State obtains an extension as described in Section 704.287(c), in which case the deadline is January 2008; or
- G) If the owner or operator plans to close its well, the owner or operator must notify the Agency of its intent to close the well (this includes closing the well prior to conversion) by at least 30 days prior to closure.

BOARD NOTE: This information is requested on the federal form entitled "Preclosure Notification for Closure of Injection Wells," available from the Agency on request.

BOARD NOTE: Any Agency determination of the most efficient compliance option under subsection (b)(1)(A), (b)(1)(B), or (b)(1)(E) is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

- 2) If the motor vehicle waste disposal well is new or converted (construction not started before April 5, 2000) it is prohibited.
- BOARD NOTE: Corresponding 40 CFR 144.88(b)(2) sets forth a federal effective date of April 5, 2000 for the prohibition.

BOARD NOTE: Derived from 40 CFR 144.88 (2000) ~~7-as-added-at-64-Fed-Reg-60570~~ {December-77-1999}.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

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- 1) Heading of the Part: Distribution of Medical Student Scholarship Payback Funds

- 2) Code Citation: 77 Ill. Adm. Code 594

- 3) Section Numbers:  
 594.10  
 594.20  
 594.30  
 594.100  
 594.200  
 594.210  
 594.220  
 594.230  
 594.240  
 594.300  
 594.400
- Proposed Action:  
 Amendment  
 Amendment  
 Amendment  
 Amendment  
 Amendment  
 Amendment  
 Amendment  
 Amendment  
 Amendment  
 Amendment

- 4) Statutory Authority: Family Practice Residency Act [110 ILCS 935] and Sections 2310-200 and 2310-205 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-200 and 2310-205].

- 5) A Complete Description of the Subjects and Issues Involved: The rulemaking amends the educational loan payback provisions according to repayment contract of the federal Department of Health and Human Services (DHHS) and includes dentists and psychiatrists in the program according to DHHS. Makes corrective technical changes.

- 6) Will this proposed rulemaking replace an emergency rulemaking in effect?  
 No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? Yes

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a State mandate.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. Please send written comments on the proposed rulemaking, within 45 days after the publication of this issue of the *Illinois Register*, to the attention of:

Paul Thompson, Staff Attorney



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Illinois Department of Public Health  
Division of Legal Services  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217/782-2043  
e-mail: rules@idph.state.il.us

- 12) Initial Regulatory Flexibility Analysis:
- A) Type of Small Businesses, Small Municipalities, and Not-for-Profit Corporations affected: None
- B) Reporting, Bookkeeping, or Other Procedures required for compliance: None
- C) Types of Professional Skills necessary for compliance: Administrative application and reporting skills.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER G: GRANTS TO INCREASE ACCESS TO PRIMARY HEALTH CARE AND SCHOLARSHIPS FOR HEALTH PROFESSIONAL STUDENTS  
  
PART 594  
DISTRIBUTION OF MEDICAL STUDENT SCHOLARSHIP PAYBACK FUNDS

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- 594.400 Eligibility for Grants  
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**AUTHORITY:** Implementing and authorized by Section 10 of the Family Practice Residency Act [110 ILCS 935/10] and Sections 2310-200 and 2310-205 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-20 and 2310-205].

**SOURCE:** Adopted at 19 Ill. Reg. 2955, effective March 1, 1995; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

## Section 594.10 Applicability

- a) This Part implements Section 10 of the Family Practice Residency ~~is in response to an~~ Act [110 ILCS 935/10] and Sections 2310-200 and 2310-205 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-200 and 2310-205]. These statutory provisions are designed to increase the availability of health care professionals ~~primary care~~ ~~physicians~~ ~~and especially family physicians~~ to meet health care needs of citizens living in underserved areas. Monies made available are to be used to expand access to primary care services. The provisions of this Part ~~rulemaking~~ are organized into five Subparts. Subpart A includes general provisions, such as definitions and administrative hearing rules, ~~that which~~ apply to all Sections of the Part.
- b) Subpart B includes provisions for creation of resource enhancement funds in cooperation with entities such as the Illinois Development Finance Authority or any others to be authorized. These provisions set forth the proposed amount of funds to be transferred to the Illinois Development Finance Authority, and establishes performance requirements for both the Authority and the Department.
- c) Subpart C includes provisions for distribution of funds to create a health professional education loan repayment program, including the modifications necessary when federal grant funds are available.
- d) Subpart D includes provisions for distribution of monies in the Community Health Center Care Fund to support activities detailed in Subparts B and D of the Illinois Rural Health Code (77 Ill. Adm. Code 5967-~~proposed~~) and to support educational enhancement activities to increase the numbers and abilities of family physicians able to meet the primary health care needs in Illinois' underserved areas.
- e) Subpart E establishes program requirements to award grants for activities ~~that which~~ will increase access to primary health care for underserved populations and will enhance educational opportunities for

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family physicians.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 594.20 Definitions

"Act" means ~~Section 10 of the Illinois Family Practice Residency Act (110 ILCS 935/10)~~ ~~Rev. Stat. 1991-CH 147-Par. 1460~~ [110 ILCS 935/10].

"Advanced practice nurse" means a nurse licensed under Title 15 of the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

"Authority" means the Illinois Development Finance Authority.

"Community Based Organization" means a locally organized and recognized group of individuals whose goals include efforts to maintain or increase the availability or accessibility of necessary health care for the citizens of the community.

"Community health center ~~Health Center~~" means community/migrant health centers or health care for the homeless projects supported under Section 254b, 254c or 256 Sections 3297-338-~~or~~ 340 of the federal Public Health Service Act (42 USC 254b, 254c7 and 256) ~~respectively~~ or federally qualified health center look-alikes, as designated by the U.S. Public Health Service.

"Center" means the Center for Rural Health of the Illinois Department of Public Health.

"Dentist" means a person licensed to practice dentistry under the Illinois Dental Practice Act [225 ILCS 25].

"Department" means the Illinois Department of Public Health.

"Downstate" means those Illinois counties other than Cook, Lake, McHenry, DuPage, Will and Kane.

"Family practice residency program" means a training program meeting the requirements of the Accreditation Council for Graduate Medical Education of the American Medical Association or the Committee on Postdoctoral Training of the American Osteopathic Association.

"Full time practice" means maintaining office hours for patient care that ~~which~~ equal or exceed the mean number of office hours per week reported by physicians, by specialty, and published in the American Medical Association's "Socioeconomic Characteristics of Medical Practice, 1992." Physician assistants and advanced practice nurses



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less, or a community located within a Metropolitan Statistical Area but having a population of 2500 or less.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 594.30 Incorporated or Referenced Materials

The following materials are incorporated or referenced in this Part:

- a) Illinois Statutes and Rules Referenced
  - 1) Illinois Family Practice Residency Act (Ill. Rev. Stat. 1991-1-147, par. 1460) [110 ILCS 935].
  - 2) Illinois Rural/Downstate Health Act (Ill. Rev. Stat. 1991-1-11, par. 0051 et seq.) [410 ILCS 65].
  - 3) Sections 2310-200 and 2310-205 of the Department of Public Health Powers and Duties Law of the Illinois Civil Administrative Code of Illinois [20 ILCS 2310/2310-200 and 2310-205] (Ill. Rev. Stat. 1991-1-1277, par. 55-53 and 55-57) [20-1569-2310/55-53 and 55-57].
  - 4) Public Act 88-0535, effective January 26, 1994 (see Section 10 of the Family Practice Residency Act).
  - 5) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).
  - 6) Family Practice Residency Code (77 Ill. Adm. Code 590).
  - 7) Illinois Rural Health Code (77 Ill. Adm. Code 596).
- b) Federal Statutes Referenced Incorporated-By-Reference
  - 1) Designation of Health Professional Shortage Areas, Section 332 of the Public Health Service Act (42 USC 5-S-E- 254e (1991)).
  - 2) Designation of Medically Underserved Areas, Section 330 (b)(3) of the Public Health Service Act (42 USC 5-S-E- 254c (b)(3)(1991)).
  - c) All incorporations by reference of standards of nationally recognized organizations refer to standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: CAPITAL FUND DEVELOPMENT IN COOPERATION WITH  
ILLINOIS DEVELOPMENT FINANCE AUTHORITY

Section 594.100 Availability of Funds

From monies deposited into the Community Health Center Care Fund since January 1, 1992, a sum not to exceed \$300,000 will be transferred to the Authority, pursuant to Public Act 88-0535, effective January 26, 1994 (see Section 10 of the Family Practice Residency Act). The transfer will be a one-time, lump sum payment.

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Mid-level providers will meet the same minimum time requirements as their supervising or collaborating physician.

"Fund" means the Community Health Center Care Fund.

"Local health department" means a county, multi-county, municipal or district public health agency recognized by the Department.

"Medically underserved population" means individuals who reside in a U.S. Department of Health and Human Services designated health professional shortage area or medically underserved area; or who are designated a medically underserved population by the U.S. Department of Health and Human Services; or who reside in an area designated by the Department as underserved.

"Mid-level providers" include health professionals who have completed specialized training and who meet the requirements of nationally recognized health professional organizations granting certification to nurse practitioners, certified nurse-midwives, and physician assistants.

"Physician assistant" means an individual licensed under the Physician Assistant Practice Act of 1987 [225 ILCS 95].

"Primary care" means health care that encompasses prevention services, basic diagnostic and treatment services, and support services such as laboratory, radiologic, transportation, and pharmacy. Primary care is comprehensive in nature and not organ or problem specific; is oriented toward the longitudinal care of the patient; and includes responsibility for coordination of other health and social services as they relate to the patients' needs.

"Primary care physician" means a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987 (Ill. Rev. Stat. 1991-1-117, par. 4400-i et seq.) [225 ILCS 60] with a specialty in family practice, general internal medicine, obstetrics/gynecology, general pediatrics, or combined internal medicine/pediatrics and as defined by recognized standards for professional medical practices.

"Psychiatrist" means a physician licensed to practice medicine in all its branches under the Medical Practice Act of 1987 [225 ILCS 60] who has successfully completed an accredited residency program in psychiatry.

"Rural" means any geographic area not located in a U.S. Bureau of the Census Metropolitan Statistical Area or a county located within a Metropolitan Statistical Area but having a population of 60,000 or



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(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART C: SUPPORT FOR HEALTH PROFESSIONALS  
EDUCATIONAL LOAN REPAYMENT GRANTS

**Section 594.200 Availability of Loan Repayment Funds**

- a) From monies deposited into the Fund, an annual sum of at least \$150,000 shall be used for a health professional educational loan repayment program beginning in State Fiscal Year 1995.
- b) These monies shall be used by the Center to match federal dollars awarded through the National Health Service Corps State Loan Repayment Program Grant, when available.
- c) If the federal grant dollars are not available, the monies made available from the Fund shall continue to be used to support an educational loan repayment program for health professionals.
- d) Funds used to repay a health professionals' educational loans shall consist of at most 75 percent State and/or federal funds and at least 25 percent local funds from nonstate and nonfederal sources.
  - 1) When National Health Service Corps State Loan Repayment Grant Program funds are available and used, the local payment will be made into the Rural/Downstate Health Access Fund.
  - 2) When only State and Community Health Center Care Fund monies are used, the local contribution may be made directly to the health care provider recruited through this program. The local entity assuming responsibility for at least the 25 percent of the payment shall enter into a written agreement with the Department. The agreement contains additional terms and conditions that which ensure compliance with this Part, the laws of the State of Illinois, and enforcement of the agreement.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 594.210 Limitations on Use of Loan Repayment Funds**

- a) Funds shall be used for the repayment of educational loans of primary care physicians, dentists, psychiatrists, physician assistants, and advanced practice nurses mid-level providers who agree to serve in designated shortage areas.
- b) Payments may be used for the principal principle, interest and related expenses of government and commercial loans received by the individual and used for tuition expenses, and all other reasonable educational expenses incurred by the individual. The loans must have been incurred in pursuit of the recipient's professional education and may include undergraduate and graduate educational programs.
- c) Applicants who agree to practice at a Department approved site in an

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underserved area for two years are eligible for up to \$25,000 annually; however, if the total amount of the applicant's qualifying educational loans is less than \$50,000, the applicant they will receive one-half of the total qualifying educational loan amount amounts annually.

- d) Applicants who agree to practice in an underserved area for 3 three years are eligible for up to \$25,000 for each of the first 2 two years and up to \$35,000 for the third year of service; however if the balance of the applicant's qualifying educational loans after the first 2 two years of service is less than \$35,000, however, the applicant they will receive payment for the remaining qualifying educational loans in the third year.
- e) Applicants who agree to practice in an underserved area for 4 four years are eligible for up to \$25,000 annually for the first and second years of service and \$35,000 annually for the third and fourth years of service. If However if the balance of the applicant's qualifying educational loans after the first 2 two years of service is less than \$70,000, however, the applicant they will receive one-half of the remaining qualifying educational loans annually in the third and fourth years.
- f) An additional amount of not more than equal to 39 percent of the total amount of loan repayments made for each tax year in which these such payments were made may shall be paid to the loan repayment program recipient in those years when National Health Service Corps State Loan Repayment Grant Program funds are available.
- g) Funds may not be used to monetarily repay any a practice obligation resulting from educational loans or scholarships whether from Illinois-based institutions or organizations or governments or those in other states.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 594.220 Eligibility for Application**

- a) Any Illinois primary care licensed physician, psychiatrist, dentist, physician assistant or advanced practice nurse mid-level provider, or one who can be expected to be licensed in Illinois and who intends to practice in a designated shortage area of Illinois, may apply for educational loan repayment.
- b) Applicants shall not have been in practice in a designated shortage area for longer than six months prior to the beginning of the next application period for educational loan repayment.
- c) Applicants shall document currently existing educational loan indebtedness to a governmental or commercial lending institution incurred for educational expenses in pursuit of the applicant's degree or diploma. This required such documentation of indebtedness shall include a photocopy or original copy of promissory notes or other



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evidence of indebtedness with disclosure of lending institution or agency, loan amount, loan period, interest rate, and any amounts repaid prior to date of application.

c) Applicants shall be willing to practice full-time in a designated shortage areas ~~areas~~ in Illinois.

d) Applicants not yet in practice, or not yet in practice in a designated shortage ~~areas~~, shall document intent to do so by written confirmation from a community-based organization, from a nonprofit or governmental ~~or~~ agency, or from other health care providers located within the designated shortage area. If the written confirmation is from a nonprofit or governmental agency, then the agency must agree to pay at least one-quarter of the applicant's outstanding principal for each year that the agency participates in the educational loan repayment program.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 594.230 Selection Criteria for Distribution of Loan Repayment Funds

a) One-third of the available funds will be used for educational loan repayment of physician assistants and advanced practice nurses ~~mid-level providers~~, if applications are sufficient in number to warrant the amount.

b) When numbers of applications are sufficient to support a geographical separation into urban and rural groupings, an equal number of applicants will be selected from each of the groups.

c) When numbers of applications are sufficient, an equal number of applicants shall be selected from Chicago and from the remaining urban areas of the State.

d) Within the geographical considerations, preference shall be given to applications from providers who will be working at sites that are serving a large minority population, in rural areas with ongoing problems recruiting providers, and migrant and community health centers.

e) Preference shall be given to applications from those providers who have been recruited by, or are actively involved with, a community-based organization or group having as one of its goals the improvement or maintenance of the availability and accessibility of primary health care in its area.

f) When all other selection criteria are essentially equal among a group of applicants, preference will be given to the applicant with the greater educational indebtedness.

g) Applications shall have the following priority classifications applied to the location and other characteristics of the practice:

1) Higher population-to-primary care physician ratio, new provider to area, and endorsement by community-based group or organization.

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2) Applicant in practice ~~6 six~~ months or less, higher ratio of population-to-primary care physician, and endorsement by community-based group or organization.

3) Applicant new to area or in practice ~~6 six~~ months or less, but no endorsement by community-based group or organization.

h) Applications shall be accepted between July 1 and September 30 and considered for funding according to the criteria described in this Section ~~above~~. If all funds are not expended, subsequent application cycles will occur on a quarterly basis until all funds are obligated.

i) Applicants who have previously received funding will be given priority consideration for continued participation in the program.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 594.240 Terms of Performance

a) Each primary care physician, dentist, psychiatrist, physician assistant, or advanced practice nurse ~~midlevel-provider~~ selected for educational loan repayment shall sign a written contract with the Department. The contract may contain additional terms and conditions that ~~which~~ ensure compliance with the laws of the State of Illinois and enforcement of the contract. In fiscal years when National Health Service Corps State Loan Repayment Grant funds are awarded to the State, federal requirements shall be included in the contract.

b) Primary care physicians, dentists, psychiatrists, physician assistants, and advanced practice nurses ~~midlevel-providers~~ selected for loan repayment shall practice for a minimum of ~~2 two~~ years in a designated shortage area on a full-time basis. In fiscal years when National Health Service Corps State Loan Repayment Grant funds are awarded to the State for support of this program, loan repayment recipients must practice in federally designated health professional shortage areas. In years when no federal funds from the National Health Service Corps State Loan Repayment Grant are available, the practice site may be located in a shortage area as designated by the Department.

c) Loan repayment recipients who want to move their practice from the location described in the recipient's original application shall request prior approval from the Department before relocating. The Department must ensure that the recipient relocates ~~relocate~~ to another designated shortage ~~an~~ area and that the health care provider in that area agrees to pay one-quarter of the recipient's outstanding principal each year that the provider participates in the program ~~which qualifies for the same or a higher priority ranking. Relocating to a lower priority area will result in termination of the loan repayment contract. The recipient will be eligible to reapply for the loan repayment program and be considered among all other applicants.~~ Payments to recipients will be made by the Department on a quarterly

d)



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~~semiannual~~ basis. The recipient is responsible for payments to the appropriate financial institutions holding the recipients' educational loans.

e) Loan repayment recipients who first agree to the minimum 2 years of service and who, after completing those years, apply for additional years of obligated service with loan repayment shall document that their loan balances as reported at the time of their first application to the program have been decreased at least by the amount paid to them by the Department during the first obligated service period. Documentation of loan balances shall be provided by the lending institution.

f) Misrepresentation of the facts presented in the application or failure to meet the practice terms will be considered a breach of contract.

g) Loan repayment recipients who agree to serve for 2 years, but ~~and~~ for any reason, fail to complete the period of obligated service, shall be liable to repay an amount equal to the sum of:

- 1) the total amount paid to the recipient and
- 2) ~~an amount equal to~~ the number of months of the unserved obligation multiplied by \$1000.

h) Loan repayment recipients who agree to serve for more than 2 years, but ~~and~~ for any reason, fail to complete at least 2 years of the period of obligated service, shall be liable to repay the sum amount-as set forth in subsection (g) above.

i) Loan repayment recipients who agree to serve for more than 2 years, but ~~and~~ for any reason, fail to complete the period of obligated service after completing at least 2 years of obligated service, shall be liable to repay an amount equal to the sum of:

- 1) the total amounts paid to the recipient for any period of obligated service not served and
- 2) \$10,000, if the recipient fails to give the Department at least one year prior notice of his or her intent to breach the obligation.

j) Loan repayment recipients who do not complete at least one year of service shall be liable to repay an amount equal to the sum of:

- 1) the total amount paid to the recipient and
- 2) ~~an amount equal to~~ the total number of months in the full period of obligated service multiplied by \$1000.

k) Obligations ~~in fiscal years--when--only--State--and--local--funds--are available--for--support--of--this--program--all--obligations~~ of the loan repayment recipient shall be excused in the event the recipient dies or becomes totally and permanently disabled. For purposes of this subsection, disability means a physical or mental disease, impairment or condition that which prevents practice in the recipients professional field with or without reasonable accommodation. Proof of disability shall be a declaration from the Social Security Administration, Illinois Industrial Commission, Department of Defense, or an insurer authorized to transact business in the State of Illinois who is an insurer of the recipient providing disability insurance

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coverage to the recipient.

1) All amounts owed by the loan repayment recipient ~~recipients~~ shall be paid within one year after ~~of~~ the date the Department determines that the recipient is in breach of the program obligations.

m) In the event the primary care physician, psychiatrist, dentist, physician assistant, or advanced practice nurse midlevel-provider does not repay any funds owed to the Department, the Department may refer the matter to the Attorney General or to a collection agency.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART D: GRANTS TO EXPAND ACCESS TO COMPREHENSIVE  
PRIMARY HEALTH CARE IN MEDICALLY UNDERSERVED AREAS OF ILLINOIS

Section 594.300 Availability of Grant Funds

a) In State fiscal year 1995, the monies in the Fund, less the lump sum transfer to the Illinois Development Finance Authority, and less the \$150,000 allocation for the educational loan repayment program, shall be distributed in equal amounts to support the following programs:

- 1) Grants to Develop Community Based Primary Care Centers (see the Illinois Rural Health Code, 77 Ill. Adm. Code 596, Subpart B);
- 2) Grants to Support Expansion of Community Health Centers' Programs (see the Illinois Rural Health Code, 77 Ill. Adm. Code 596, Subpart D);
- 3) Grants to support development, maintenance and expansion of educational experiences that which will result in an increased supply of family physicians for Illinois' rural and its underserved areas (see Subpart E of this Part).

b) In State fiscal year 1996 and all subsequent years, the monies in the fund as of June 30 of the prior fiscal year, less the \$150,000 allocation for the educational loan repayment program, shall be distributed in equal amounts to support the programs as proposed in subsection (a) of this Section.

c) Monies allocated to each activity but not expended in a fiscal year shall be added to the allocation for the activity in the subsequent fiscal year.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: GRANTS TO SUPPORT PROJECTS THAT WHICH WILL INCREASE  
THE SUPPLY OF FAMILY PHYSICIANS FOR ILLINOIS' UNDERSERVED AREAS

Section 594.400 Eligibility for Grants

The this grant program in this Subpart E is designed to improve the ability of



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medical schools and family practice residencies both to increase the numbers of family physicians and to better prepare family physicians for practice in underserved areas of the State.

- a) The following applicants are eligible to apply for grants through this Subpart:

- 1) Any accredited family practice residency program located in Illinois.<sup>7</sup>
- 2) Any any school of medicine or osteopathy in Illinois with a department of family medicine or family practice.<sup>7</sup>
- 3) Any local health department departments serving an underserved population.<sup>7</sup>
- 4) Any non-profit, community-based organization organizations or facility facilities, including, but not limited to, a community health center centers.

- b) Each application must be jointly submitted by at least 2 ~~two~~ eligible applicants, with one applicant being a residency program or a medical or osteopathic school.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Safe and Hygienic Bed Code
- 2) Code Citation: 77 Ill. Adm. Code 835
- 3) Section Numbers:

835.10	<u>Proposed Action:</u>
835.20	New Section
835.30	New Section
835.40	New Section
835.50	New Section
835.60	New Section
APPENDIX A	New Section
APPENDIX B	New Section
- 4) Statutory Authority: Authorized by and implementing the Safe and Hygienic Bed Act [410 ILCS 68].

- 5) A Complete Description of the Subjects and Issues Involved: These rules are required for the administration of the Safe and Hygienic Bed Act. The rules specify registration requirements and fees for bedding producers operating in Illinois. The rules also specify format and information to be included on bedding labels to be attached to bedding sold in Illinois.

- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No

- 7) Does this Rulemaking Contain an Automatic Repeal Date? No

- 8) Does this Rulemaking Contain any Incorporations by Reference? No

- 9) Are there any Other Proposed Amendments Pending on this Part? Yes

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any state mandates on units of local government.

- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules, within 45 days after this issue of the *Illinois Register*, by writing to:

Paul Thompson, Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
(217)782-2043  
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. Small businesses commenting on these rules shall indicate their status as such, in writing,



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in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: Bedding producers

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Bedding producers will have to register with the Department annually and submit a sample bedding label to the Department.

C) Types of Professional Skills Necessary for Compliance: None

13) Date of regulatory agenda on which this rulemaking was summarized:  
January 2000

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF PROPOSED RULES  
TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER O: PEST CONTROL  
PART 835  
SAFE AND HYGIENIC BED CODE

Section	Definitions
835.10	Label Requirements
835.20	Bedding Producer Registration
835.30	Annual Renewal of Registration
835.40	Fees
835.50	Violations
835.60	

APPENDIX A	New Bedding All New Materials Label
APPENDIX B	Used Bedding Secondhand Materials Label

AUTHORITY: Implementing and authorized by the Safe and Hygienic Bed Act [410 ILCS 68].

SOURCE: Adopted at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 835.10 Definitions

"Act" means the Safe and Hygienic Bed Act [410 ILCS 68].

"Bedding" means any mattress, box spring, foundation, or studio couch made in whole or part from new or secondhand fabric, filling material, or other textile product or material and which can be used for sleeping or reclining purposes. This includes futons, but not water bed liners, bladders, or cylinders unless they contain textile padding or stuffing, blankets, quilts, comforters, small pillows or cushions designed for head support. (Section 5 of the Act)

"Bedding producer" means any manufacturer, renovator, rebuilder, repairer, or sanitizer of bedding for sale to retailers, wholesalers, or consumers in the State of Illinois. It does not include consumers, medical facilities, lodging establishments, or other persons not otherwise specified in this definition.

"Department" means the Illinois Department of Public Health.

"New bedding" means bedding that is not used bedding.

"Secondhand material" means any fabric, filling material, other textile product or material, or article of bedding that has been



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## NOTICE OF PROPOSED RULES

*previously used for any purpose or that is derived from post-consumer or industrial waste, and that may be used in place of or in addition to new material in manufacturing or renovating bedding.* (Section 5 of the Act)

"Uniform registry number system" means a unique alphanumeric designation assigned by any state to a bedding producer where the two-letter prefix is the abbreviation for the state that registered the bedding producer followed by any number of digits unique for that prefix, followed by a two-letter suffix in parentheses for the state or country of manufacture if the manufacturing state is different from the state of registration.

"Used bedding" means bedding constructed in whole or part of secondhand materials, but does not include bedding used only for display purposes.

**Section 835.20 Label Requirements**

Bedding producers must affix a label that complies with this Section to all bedding sold to consumers, retailers, or wholesalers in the State of Illinois. See Appendix A and Appendix B of this Part for examples of bedding labels.

- a) **Size.** The minimum size for labels shall be 2 by 3 inches, excluding the 1/2 inch length at the bottom and/or top of the label necessary for attaching the label to the bedding.
- b) **Color.** A bright yellow colored label shall be attached to used bedding and a white colored label shall be attached to new bedding.
- c) **Format and Text.** All required text shall be in English and shall be printed in black ink on one side of the label in the following order. If a larger type than the minimum is used, the ratio of type sizes between different label sections shall comply with this subsection.
  - 1) At the top of the label the text "UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER" shall be printed in a minimum of 8 point uppercase type. This text shall be visible below the portion of the label attached to the bedding.
  - 2) A statement of whether the bedding is new bedding or used bedding as follows:
    - A) For new bedding, the label shall state "NEW BEDDING" in a minimum of 16 point uppercase type and "All New Materials" in a minimum of 10 point type.
    - B) For used bedding, the label shall state "USED BEDDING" in a minimum of 16 point uppercase type and "Secondhand Materials" in a minimum of 10 point type.
  - 3) The registration number assigned by the Department shall be printed in a minimum of 8 point type after the prefix of "Registration #".
  - 4) The bedding producer's name and address shall be printed in a minimum of 8 point type.

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- 5) **Other Text or Graphics.** In addition to the text required by this subsection (c), text required by other governmental authorities is permitted on the label.
- 6) The tag shall not contain any other misleading or untrue statements about the contents, source, or condition of the bedding.
- d) **Placement.** The label shall be located on the outside covering of the top panel or any other location plainly and clearly visible to the consumer at all times.
- e) **Material.** The label shall be made of a durable material such as linen, muslin, Tyvek, white velum cloth, or other material of comparable quality that will not flake out when abraded.
- f) **Attachment.** The label shall be attached securely to the bedding. The attachment method shall not obscure the lettering on the tag. Stitching or other methods that may obscure the lettering on the label shall not extend beyond the 1/2 inch area of the tag at the top and/or bottom reserved for attachment of the label.

**Section 835.30 Bedding Producer Registration**

- a) Each bedding producer doing business in Illinois on or after January 1, 2002 shall register by February 1, 2002 with the Department. After February 1, 2002, bedding producers shall not sell or distribute bedding in Illinois unless they have registered with the Department and received a registration number from the Department. A separate registration application shall be submitted for each separate production facility.
- b) Each bedding producer must submit a registration application in a format specified by the Department. The application will require information identifying the bedding producer, the location of its production facility, and a description of the bedding products sold in Illinois as either "new bedding" or "used bedding". The application will also contain a statement, which must be signed by the applicant, certifying that the applicant will abide by the Act and this Part, that all the information provided in the application is true, and that the applicant understands that the information provided on the application, and its status in the Department, will be considered non-confidential by the Department and may be periodically published or made available to the public by the Department without notice to the applicant.
- c) The bedding producer may request as part of the application that the Department assign the bedding producer the same registration number assigned to it by another state. The Department will accept a valid registration number assigned by any other state that is based on the uniform registry number system. In such a case, the Department must receive valid documents from the applicant with the registration application that shows the other state's assignment and approval of the number it has requested the Department to assign. If the applicant



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- does not request a specific number, the Department will assign a new registration number based on the uniform registry number system.
- d) The bedding producer must send to the Department the properly completed registration application and the initial registration fee in the amount specified in Section 835.50.
  - e) Change of ownership or address. The bedding producer must submit a new registration application and fees to the Department within 30 calendar days after a change in ownership or change in the address of its production facility or the registration will expire and the previously assigned registration number will become inactive.

## Section 835.40 Annual Renewal of Registration

Registrations may be renewed for a period of one year from each succeeding January 1 upon submission to the Department by the bedding producer of a correctly completed renewal registration application and renewal fee, in the amount specified in Section 835.50, on or before the previous December 1. All registrations shall expire on December 31 of each year, except initial registrations issued after October 1 shall expire one year after the next December 31, unless the registration is renewed in accordance with this Section.

## Section 835.50 Fees

- a) All fees submitted to the Department are nonrefundable.
- b) The initial registration fee is \$200.
- c) The renewal fee is \$200.

## Section 835.60 Violations

All complaints and allegations of violations of the Act and this Part received by the Department will be referred to the Illinois Attorney General or appropriate State's Attorney for investigation and enforcement. The Department will not issue or renew registrations or activate registration numbers for persons convicted of a violation of the Act or this Part.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED RULES

## Section 835.APPENDIX A New Bedding All New Materials Label

Label Background Color is White

Optional 1/8 inch Space for Attachment

UNDER PENALTY OF LAW THIS  
TAG NOT TO BE REMOVED  
EXCEPT BY CONSUMER

NEW BEDDING  
All New Materials

Registration #:

Bedding Producer's Name and  
Address

3 pt. Minimum, All uppercase

16 pt. Minimum, All uppercase

10 pt. Minimum

8 pt. Minimum

Optional 1/8 inch Space for Attachment

2 inch minimum



DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: 130.2076  
Proposed Action: New Section
- 4) Statutory Authority: 35 ILCS 120
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking adds a new Section that provides that sales of tangible personal property to a purchaser who is a government contractor and who will resell such property to a governmental body as part of a contract with the governmental body are exempt from Retailers' Occupation Tax as sales for resale if certain requirements are met.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	IL Register Citation
130.330	Amendment	5/26/00, 24 Ill. Reg. 7617
130.401	Amendment	12/29/00, 24 Ill. Reg. 19030
130.1501	Amendment	02/09/01, 25 Ill. Reg. 2325
130.2004	New Section	02/16/01, 25 Ill. Reg. 2676
130.2075	Amendment	05/11/01, 25 Ill. Reg. 6108

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

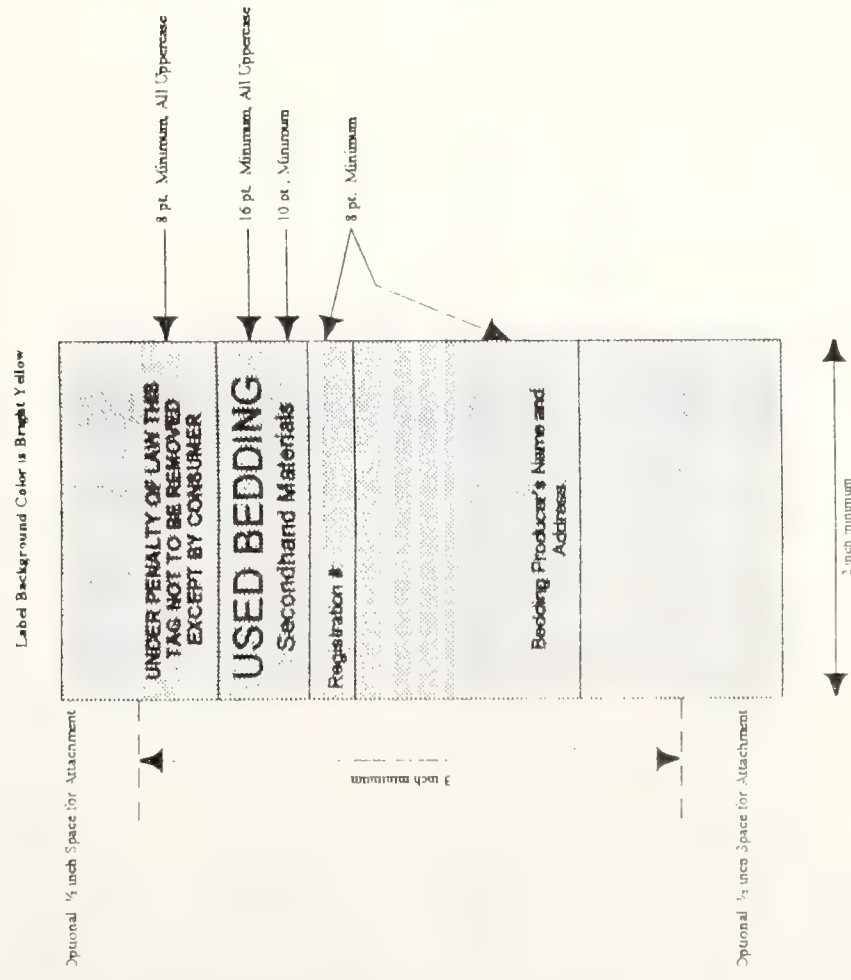
Gina Roccaforte  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
217/782-6996

- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

Section 835.APPENDIX B Used Bedding Secondhand Materials Label





## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Purchasers who are government contractors
- B) Reporting, bookkeeping or other procedures required for compliance: Minimal
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

PART 130  
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section  
130.101  
130.105  
130.110  
130.111  
130.115  
130.120

Character and Rate of Tax  
Responsibility of Trustees, Receivers, Executors or Administrators  
Occasional Sales  
Sale of Used Motor Vehicles by Leasing or Rental Business  
Habitual Sales  
Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section  
130.201  
130.205  
130.210  
130.215  
  
130.220  
130.225

The Test of a Sale at Retail  
Sales for Transfer Incident to Service  
Sales of Tangible Personal Property to Purchasers for Resale  
Further Illustrations of Sales for Use or Consumption Versus Sales for Resale  
Sales to Lessors of Tangible Personal Property  
Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section  
130.305  
130.310  
130.315  
130.320  
130.321  
130.325  
130.330  
130.331  
130.332  
130.335  
130.340  
130.345  
130.350  
  
130.351

Farm Machinery and Equipment  
Food, Drugs, Medicines and Medical Appliances  
Fuel Sold for Use in Vessels on Rivers Bordering Illinois  
Gasohol  
Fuel Used by Air Common Carriers in International Flights  
Graphic Arts Machinery and Equipment Exemption  
Manufacturing Machinery and Equipment  
Manufacturer's Purchase Credit  
Automatic Vending Machines that Dispense Hot Food or Beverages  
Pollution Control Facilities  
Rolling Stock  
Oil Field Exploration, Drilling and Production Equipment  
Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment  
Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS



## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

Section  
130.401 Meaning of Gross Receipts  
130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser  
130.410 Cost of Doing Business Not Deductible  
130.415 Transportation and Delivery Charges  
130.420 Finance or Interest Charges--Penalties--Discounts  
130.425 Traded-In Property  
130.430 Deposit or Prepayment on Purchase Price  
130.435 State and Local Taxes Other Than Retailers' Occupation Tax  
130.440 Penalties  
130.445 Federal Taxes  
130.450 Installation, Alteration and Special Service Charges  
130.455 Motor Vehicle Leasing and Trade-In Allowances

## SUBPART E: RETURNS

Section  
130.501 Monthly Tax Returns--When Due--Contents  
130.502 Quarterly Tax Returns  
130.505 Returns and How to Prepare  
130.510 Annual Tax Returns  
130.515 First Return  
130.520 Final Returns When Business is Discontinued  
130.525 Who May Sign Returns  
130.530 Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations  
130.535 Payment of the Tax, Including Quarterly Monthly Payments in Certain Instances  
130.540 Returns on a Transaction by Transaction Basis  
130.545 Registrants Must File a Return for Every Return Period  
130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances  
130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel  
130.555 Vending Machine Information Returns  
130.560 Verification of Returns

## SUBPART F: INTERSTATE COMMERCE

Section  
130.601 Preliminary Comments  
130.605 Sales of Property Originating in Illinois  
130.610 Sales of Property Originating in Other States

## SUBPART G: CERTIFICATE OF REGISTRATION

Section  
130.701 General Information on Obtaining a Certificate of Registration

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements  
130.710 Procedure When Security Must be Forfeited  
130.715 Sub-Certificates of Registration  
130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances  
130.725 Display  
130.730 Replacement of Certificate  
130.735 Certificate Not Transferable  
130.740 Certificate Required For Mobile Vending Units  
130.745 Revocation of Certificate

## SUBPART H: BOOKS AND RECORDS

Section  
130.801 General Requirements  
130.805 What Records Constitute Minimum Requirement  
130.810 Records Required to Support Deductions  
130.815 Preservation and Retention of Records  
130.820 Preservation of Books During Pendency of Assessment Proceedings  
130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

## SUBPART I: PENALTIES AND INTEREST

Section  
130.901 Civil Penalties  
130.905 Interest  
130.910 Criminal Penalties

## SUBPART J: BINDING OPINIONS

Section  
130.1001 When Opinions from the Department are Binding

## SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section  
130.1101 Definition of Federal Area  
130.1105 When Deliveries on Federal Areas Are Taxable  
130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

## SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section  
130.1201 General Information  
130.1205 Due Date that Falls on Saturday, Sunday or a Holiday



## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section  
130.1301 When Lessee of Premises Must File Return for Leased Department  
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises  
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

## SUBPART N: SALES FOR RESALE

Section  
130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale  
130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale  
130.1410 Requirements for Certificates of Resale (Repealed)  
130.1415 Resale Number--When Required and How Obtained  
130.1420 Blanket Certificate of Resale (Repealed)

## SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section  
130.1501 Claims for Credit--Limitations--Procedure  
130.1505 Disposition of Credit Memoranda by Holders Thereof  
130.1510 Refunds  
130.1515 Interest

## SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

Section  
130.1601 When Returns are Required After a Business is Discontinued  
130.1605 When Returns Are Not Required After Discontinuation of a Business  
130.1610 Cross Reference to Bulk Sales Regulation

## SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section  
130.1701 Bulk Sales: Notices of Sales of Business Assets

## SUBPART R: POWER OF ATTORNEY

Section  
130.1801 When Powers of Attorney May be Given  
130.1805 Filing of Power of Attorney With Department  
130.1810 Filing of Papers by Agent Under Power of Attorney

## SUBPART S: SPECIFIC APPLICATIONS

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

Section  
130.1901 Addition Agents to Plating Baths  
130.1905 Agricultural Producers  
130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles  
130.1915 Auctioneers and Agents  
130.1920 Barbers and Beauty Shop Operators  
130.1925 Blacksmiths  
130.1930 Chiroprodists, Osteopaths and Chiropractors  
130.1935 Computer Software  
130.1940 Construction Contractors and Real Estate Developers  
130.1945 Co-operative Associations  
130.1950 Dentists  
130.1951 Enterprise Zones  
130.1952 Sales of Building Materials to a High Impact Business  
130.1955 Farm Chemicals  
130.1960 Finance Companies and Other Lending Agencies -- Installment Contracts -- Bad Debts  
130.1965 Florists and Nurserymen  
130.1970 Hatcheries  
130.1971 Sellers of Pets and the Like  
130.1975 Operators of Games of Chance and Their Suppliers  
130.1980 Optometrists and Opticians  
130.1985 Pawnbrokers  
130.1990 Peddlers, Hawkers and Itinerant Vendors  
130.1995 Personalizing Tangible Personal Property  
130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers  
130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons  
130.2006 Sales by Teacher-Sponsored Student Organizations  
130.2007 Exemption Identification Numbers  
130.2008 Sales by Nonprofit Service Enterprises  
130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools  
130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others  
130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals  
130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies  
130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property  
130.2020 Physicians and Surgeons  
130.2025 Picture-Framers  
130.2030 Public Amusement Places  
130.2035 Registered Pharmacists and Druggists  
130.2040 Retailers of Clothing  
130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art



## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

Shows, Flea Markets and the Like  
Sales and Gifts By Employers to Employees  
Sales by Governmental Bodies  
Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products  
Sales of Automobiles for Use in Demonstration (Repealed)  
Sales of Containers, Wrapping and Packing Materials and Related Products  
Sales To Construction Contractors, Real Estate Developers and Speculative Builders  
Sales to Purchasers Performing Contracts with Governmental Bodies  
Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel  
Sales to or by Banks, Savings and Loan Associations and Credit Unions  
Sales to Railroad Companies  
Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles  
Sellers of Feeds and Breeding Livestock  
Sellers of Newspapers, Magazines, Books, Sheet Music and Recordings, and Their Suppliers; Transfers of Data Downloaded Electronically  
Sellers of Seeds and Fertilizer  
Sellers of Machinery, Tools and Special Order Items  
Suppliers of Persons Engaged in Service Occupations and Professions  
Trading Stamps and Discount Coupons  
Undertakers and Funeral Directors  
Vending Machines  
Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order  
Vendors of Meals  
Vendors of Memorial Stones and Monuments  
Vendors of Signs  
Vendors of Steam  
Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.  
Veterinarians  
Warehousemen

## ILLUSTRATION A Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 39b3 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b3].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979;

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill.



## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 15, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; amended at 25 Ill. Reg. \_\_\_\_\_, effective May 9, 2001; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART S: SPECIFIC APPLICATIONS

Section 130.2076 Sales to Purchasers Performing Contracts with Governmental Bodies

a) Generally, a government contractor who purchases items to fulfill his obligations under a contract with a governmental unit purchases those items for use. See, U.S. v. New Mexico, 455 U.S. 720, 102 S.Ct. 1373 (1982). However, if the contract with the governmental unit explicitly requires the contractor to sell those items to the governmental unit, the purchase of those items by the contractor can be structured as purchases for the purpose of resale to the governmental unit. Sales of tangible personal property to the contractor in this situation are exempt from Retailers' Occupation Tax as sales for resale if the following conditions are met:

- 1) There is a contract between the purchaser and the governmental body that requires the purchaser to provide tangible personal property to the governmental body.
- 2) The contract is specific in documenting a sale of tangible personal property from the purchaser to the governmental body. The contract must specify that the tangible personal property is transferred to the governmental body. However, the contract does not have to be item specific. For example, a statement that title to all of the tangible personal property that is purchased shall pass to the governmental body is sufficient. The transfer may be immediate or subsequent to the completion of the contract.
- b) The exemption in subsection (a) above applies to tangible personal property that is used or consumed in the performance of a contract with a governmental body and to which title passes to the governmental body under the terms of the contract. For example, the exemption applies to consumable supplies, such as fuel, that a purchaser uses to fulfill the contract with the governmental body so long as the conditions set forth in subsection (a) are met.
- c) A supplier claiming exemption shall have among his records a Certificate of Resale from the purchasing government contractor that conforms to the requirements set forth in Section 130.1405.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: Adopted Action:  
310.290 Amend
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 5) Effective Date of Amendment: May 11, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposals Published in the Illinois Register: November 27, 2001, Issue #48, 24 Ill. Reg. 17384
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?  
No
- 15) Summary and Purpose of Amendment: In Section 310.290, Out-of-State or Foreign Service Rate, an Executive II position located in Washington, D.C. was added at the request of the Department of Children and Family Services. The monthly ranges for this position are \$3,037 - \$5,475 for the States other than California and New Jersey; and \$3,433 - \$6,189 for the States of California and New Jersey.

- 16) Information and questions regarding this adopted amendment shall be directed to: Mr. Michael Murphy  
Department of Central Management Services 217/782-5601  
Division of Technical Services  
504 William G. Stratton Building  
Springfield, Illinois 62706

The full text of the adopted amendment begins on the next page:



DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310  
PAY PLAN

SUBPART A: NARRATIVE

Section  
310.20 Policy and Responsibilities  
310.30 Jurisdiction  
310.40 Pay Schedules  
310.50 Definitions  
310.60 Conversion of Base Salary to Pay Period Units  
310.70 Conversion of Base Salary to Daily or Hourly Equivalents  
310.80 Increases in Pay  
310.90 Decreases in Pay  
310.100 Other Pay Provisions  
310.110 Implementation of Pay Plan Changes for Fiscal Year 2001  
310.120 Interpretation and Application of Pay Plan  
310.130 Effective Date  
310.140 Reinstitution of Within Grade Salary Increases (Repealed)  
310.150 Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section  
310.205 Introduction  
310.210 Prevailing Rate  
310.220 Negotiated Rate  
310.230 Part-Time Daily or Hourly Special Services Rate  
310.240 Hourly Rate  
310.250 Member, Patient and Inmate Rate  
310.260 Trainee Rate  
310.270 Legislated and Contracted Rate  
310.280 Designated Rate  
310.290 Out-of-State or Foreign Service Rate  
310.300 Educator Schedule for RC-063 and HR-010  
310.310 Physician Specialist Rate  
310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections  
310.330 Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

Section  
310.410 Jurisdiction  
310.420 Objectives  
310.430 Responsibilities  
310.440 Merit Compensation Salary Schedule  
310.450 Procedures for Determining Annual Merit Increases  
310.455 Intermittent Merit Increase  
310.456 Merit Zone (Repealed)  
310.460 Other Pay Increases  
310.470 Adjustment  
310.480 Decreases in Pay  
310.490 Other Pay Provisions  
310.495 Broad-Band Pay Range Classes  
310.500 Definitions  
310.510 Conversion of Base Salary to Pay Period Units  
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AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory

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amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; peremptory amendment at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854,



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effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160,

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effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill.



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Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; peremptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; peremptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; peremptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; peremptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; peremptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; peremptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655 effective MAY 1, 2001.

SUBPART B: SCHEDULE OF RATES

Section 310.290 Out-of-State or Foreign Service Rate

The rate of pay for employees occupying positions which require payment in accordance with the economic conditions and social legislation of another state or foreign country. An adjustment may be made to the salary of an employee stationed in a foreign country to compensate for a change in the currency exchange rate. The Director of the Department of Central Management Services will, before approving an adjustment, consider the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

Title	Range	
	Effective	Fiscal
	Year 2001	
Executive II		
(States Other Than California and New Jersey)	3037-5475	
(CA, NJ)	3433-6189	
Foreign Service Economic Development Executive I	3455-6168	
Foreign Service Economic Development Executive II	4424-8083	
Foreign Service Economic Development Representative	2936-5288	
Office Administrator IV		
(States Other Than California and New Jersey)	2307-3993	

(CA, NJ)	2608-4514
Office Assistant (Foreign Service)	1824-2461
Office Associate	
(States Other Than California and New Jersey)	1950-2675
(CA, NJ)	2205-3024
Office Coordinator	
(States Other Than California and New Jersey)	2025-2791
(CA, NJ)	2289-3155
Public Service Administrator	
(States Other Than California and New Jersey)	3094-6767
(CA, NJ)	3497-7649
Revenue Auditor I	
(States Other Than California and New Jersey)	2760-3943
(CA, NJ)	3120-4458
Revenue Auditor II	
(States Other Than California and New Jersey)	3217-4660
(CA, NJ)	3636-5268
Revenue Auditor III	
(States Other Than California and New Jersey)	3589-5234
(CA, NJ)	4057-5916
Revenue Auditor Trainee	
(States Other Than California and New Jersey)	2300-3215
(CA, NJ)	2600-3635
Revenue Tax Specialist I	
(States Other Than California and New Jersey)	2300-3215
(CA, NJ)	2600-3635
Revenue Tax Specialist II	
(States Other Than California and New Jersey)	2516-3562
(CA, NJ)	2844-4026
Revenue Tax Specialist Trainee	
(States Other Than California and New Jersey)	2103-2921
(CA, NJ)	2378-3302
Senior Public Service Administrator	
(States Other Than California and New Jersey)	4263-10018
(CA, NJ)	4819-11324



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENT

(Source: Amended at 25 Ill. Reg. 6655, effective  
MAY 11 2001)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers:
- |         |                        |
|---------|------------------------|
| 140.416 | <u>Adopted Action:</u> |
| 140.417 | Amendment              |
| 140.418 | Amendment              |
| 140.445 | Amendment              |
| 140.446 | Amendment              |
| 140.447 | Amendment              |

- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

- 5) Effective Date of Amendments: May 11, 2001

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? No

- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register:

Sections 140.416, 140.417, 140.418 - December 22, 2000 (24 Ill. Reg. 18486)

Sections 140.445, 140.446, 140.447 - December 29, 2000 (24 Ill. Reg. 19344)

- 10) Has JCAR issued a Statement of Objection to these amendments? No

- 11) Differences Between Proposal and Final Version:

**Section 140.417**

Subsection (d) has been reformatted as follows:

- d) Payment shall be made for more than one pair of eyeglasses or set of lenses per year only when the physician or optometrist documents:
- 1) that:
- A) the most recent original pair of eyeglasses or set of lenses was lost or destroyed for reasons beyond the control of the recipient; or
- B) there is a change in the prescription that meets the



DEPARTMENT OF PUBLIC AID

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requirements in subsection (a)(2) or (b)(2) of this Section; and  
2) that the additional pair is medically necessary essential-and obtains prior approval from the Department in accordance with Section 140.446.

Subsection (f) has been revised by deleting "(1) through (5)" at the end of the first sentence.

Section 140.445

The text in subsection (b)(1)(A) has been stricken and the remaining subsections under subsection (b)(1) have been relabeled accordingly.

Current text in the subsections under subsection (b)(1) and subsection (b)(2) have been revised by striking, "plus the established dispensing fee".

No other changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? Yes. (Sections 140.445, 140.446, 140.447 (24 Ill. Reg. 19344))

14) Are there any other amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.400	Amendment	March 16, 2001 (25 Ill. Reg. 3806)
140.435	Amendment	March 16, 2001 (25 Ill. Reg. 3806)
140.436	Amendment	March 16, 2001 (25 Ill. Reg. 3806)
140.494	New Section	July 20, 2000 (24 Ill. Reg. 11539)
140.642	Amendment	March 2, 2001 (25 Ill. Reg. 3190)
140.850	Amendment	April 20, 2001 (25 Ill. Reg. 5600)
140.855	Amendment	April 20, 2001 (25 Ill. Reg. 5600)

15) Summary and Purpose of Amendments:

Sections 140.416, 140.417, 140.418

These amendments relate to optometric services and materials that are covered under the Department's Medical Assistance Program.

Changes in Section 140.416 eliminate coverage for frame parts that are obtained from any source other than the Department of Corrections (DOC) laboratory. Previously, the DOC laboratory did not manufacture frame parts, so Department coverage was provided for these materials to other

DEPARTMENT OF PUBLIC AID

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sources such as optical suppliers. Since DOC now manufactures frame parts, as well as lenses and frames, payment for these items under the Medical Assistance Program will be made only to the DOC laboratory.

In Section 140.417, changes eliminate prior approval requirements concerning a second pair of eyeglasses per year for medical assistance clients. A Department review of the Optometric Program in recent years shows that a second pair of eyeglasses is always covered when the physician or optometrist documents the client's medical need. Therefore, prior approval requirements are not necessary. Other changes in this Section allow coverage, with prior approval, for a third pair of eyeglasses for adults 21 years of age and older when the necessity is warranted by a Department consultant.

Sections 140.445, 140.446, 140.447

These amendments provide for reimbursement changes concerning pharmacy services that result in rates that are based on the Department's best, current estimate of actual acquisition costs. The changes add wholesale acquisition costs as an additional factor in determining current acquisition cost. These changes are in keeping with federal regulations that require Medicaid agencies to reimburse providers using the agency's best estimate of the price generally and currently paid by providers to acquire the drug plus a reasonable dispensing fee.

This rulemaking includes several changes in the current reimbursement methodology. In Section 140.445, the Department is adding an additional method for determining the maximum price paid for prescription drugs. Under the new reimbursement plan, calculations will be based on the wholesale acquisition cost plus a percentage for brand name and generic drugs. Reimbursement changes in Section 140.447 coincide with these changes. In Section 140.446, changes are being made to reduce costs associated with over-the-counter items by utilization of the average wholesale price plus a percentage.

As a result of these changes concerning drug reimbursement, the Department anticipates annual expenditures to decrease by approximately \$35 million.

16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
217/524-0081



## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140  
MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

## Section

- 140.1 Incorporation By Reference  
140.2 Medical Assistance Programs  
140.3 Covered Services Under Medical Assistance Programs  
140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)  
140.5 Covered Medical Services Under General Assistance  
140.6 Medical Services Not Covered  
140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight  
140.8 Medical Assistance For Qualified Severely Impaired Individuals  
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy  
140.10 Medical Assistance Provided to Incarcerated Persons

## SUBPART B: MEDICAL PROVIDER PARTICIPATION

## Section

- 140.11 Enrollment Conditions for Medical Providers  
140.12 Participation Requirements for Medical Providers  
140.13 Definitions  
140.14 Denial of Application to Participate in the Medical Assistance Program  
140.15 Recovery of Money  
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program  
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program  
140.18 Effect of Termination on Individuals Associated with Vendor  
140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring  
140.20 Submittal of Claims  
140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)  
140.22 Magnetic Tape Billings (Repealed)  
140.23 Payment of Claims  
140.24 Payment Procedures  
140.25 Overpayment or Underpayment of Claims  
140.26 Payment to Factors Prohibited



## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

140.27 Assignment of Vendor Payments  
 140.28 Record Requirements for Medical Providers  
 140.30 Audits  
 140.31 Emergency Services Audits  
 140.32 Prohibition on Participation, and Special Permission for Participation  
 140.33 Publication of List of Terminated, Suspended or Barred Entities  
 140.35 False Reporting and Other Fraudulent Activities  
 140.40 Prior Approval for Medical Services or Items  
 140.41 Prior Approval in Cases of Emergency  
 140.42 Limitation on Prior Approval  
 140.43 Post Approval for items or Services When Prior Approval Cannot Be Obtained  
 140.55 Recipient Eligibility Verification (REV) System  
 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice  
 140.72 Voucher Advance Payment and Expedited Payments  
 140.73 Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

Section  
 140.80 Hospital Provider Fund  
 140.82 Developmentally Disabled Care Provider Fund  
 140.84 Long Term Care Provider Fund  
 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund  
 140.95 Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund  
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TABLE M

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 15047, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 12868, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective June 1, 1984; maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629,

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Elimination Of Hospital Services For Persons Age Eighteen (18) And



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effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg.

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Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 11 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6,



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1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg.

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7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998;



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amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days, emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective MAY 11 2001.

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

## Section 140.416 Optometric Services and Materials

- a) Payment for optometric services and materials shall be made to physicians, optometrists, opticians and optical companies.
- b) Payment shall be made for the following optometric services and materials:
- 1) An eye examination by a physician or an optometrist for the purpose of determining the condition of the eye including the refractive state.
  - 2) Frame ~~parts~~ frame repairs, contact lenses, artificial eyes and low vision devices provided by physicians, optometrists, opticians and optical companies.
  - 3) Dispensing of optical materials.
  - 4) Lenses, frame parts and frames provided by the Department of Corrections (DOC) laboratory.
- c) Optometric services and materials for which payment shall not be made include:
- 1) Services which are not provided to address a recipient's particular visual problems or complaints.
  - 2) Lenses, and frames and frame parts obtained from a source other than the DOC laboratory.
  - 3) Trifocals.
  - 4) Tinted lenses.
  - 5) Provider's transportation costs.
- d) Payment for services and materials shall be at the lesser of the provider's usual and customary charge or the maximums established by the Department pursuant to Section 140.400.

(Source: Amended at 25 Ill. Reg. 6665, effective

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## Section 140.417 Limitations on Optometric Services

Payment for the following optometric services and materials shall be made subject to the following limitations:

- a) Payment shall be made for single vision lenses only when the following conditions are met:
- 1) The power is at least 0.75 diopters in either the sphere or cylinder component; or
  - 2) The difference between the old and new prescription is at least 0.75 diopters in either the sphere or cylinder component.
- b) Payment shall be made for bifocal lenses only when the following conditions are met:
- 1) For first bifocals, the power of the bifocal addition is at least 1.00 diopter.
  - 2) For a change in bifocal lenses, the power of the bifocal addition addition is changed by at least 0.50 ~~50~~ diopters or the distance power represents a change of at least 0.75 ~~75~~ diopters.
- c) Payment shall be made for more than one examination per year only when ~~a~~ the vendor documents the need for the additional examination.
- d) Payment shall be made for more than one pair of eyeglasses or set of lenses per year only when the physician or optometrist documents:
- 1) that:
    - A) the most recent original pair of eyeglasses or set of lenses was lost or destroyed for reasons beyond the control of the recipient; or
    - B) there is a change in the prescription that meets the requirements in subsection (a)(2) or (b)(2) of this Section; and that
  - 2) that the additional pair is medically necessary essential ~~and obtains prior approval from the Department in accordance with Section 140.40.~~
- e) Payment for optometric materials dispensed by a supplier other than a physician or optometrist, except for replacement and repair items, shall be made only when they are prescribed by a licensed physician or optometrist.
- f) Prior approval pursuant to Section 140.40 is required for the services and materials described in this subsection (f). Payment for the following shall be made only when prior approval in accordance with Section 140.40 has been given by the Department. Approval shall be given when, in the judgment of a Department consultant consulting physician, the requested item or service is appropriate.
- 1) Contact lenses and related contact lens services;
  - 2) A third second pair of eyeglasses in one year for adults 21 years of age or older;
  - 3) Custom made artificial eyes ~~artificial eye~~;
  - 4) Low vision devices; and

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- 5) Any item or service not specifically included in the schedule of procedures for optical services and supplies.

(Source: Amended at 25 Ill. Reg. 66 65 effective MAY 11 2001)

## Section 140.418 Department of Corrections Laboratory

~~a) All lenses, frames and frame parts~~ frames shall be obtained from the Department of Corrections (DOC) laboratory. DOC shall not engage in "office" services, such as ~~e-g-~~ examinations or dispensing of eyeglasses to recipients, but shall be the State's laboratory for fabrication of eyeglasses. Individual optical suppliers shall continue to provide examinations, ~~frame-parts~~ frame repairs, contact lenses, artificial eyes and low vision devices, as well as dispensing of eyeglasses obtained from the DOC laboratory. Payment for fabrication of eyeglasses shall be made by the Department of Public Aid directly to the Department of Corrections.

- b) Utilization of the Department of Corrections Laboratory shall apply to individual suppliers as they are phased in under an implementation schedule which is to conclude in May 1987. When phase in is completed, no individual supplier shall be paid for lenses and frames. Until such time, individual suppliers who are not yet phased in shall be paid directly for provision of lenses and frames.

(Source: Amended at 25 Ill. Reg. 66 65, effective MAY 11 2001)

## Section 140.445 Legend Prescription Items (Not Compounded)

For legend (prescription) drugs, the Department shall pay the lower of:

- a) the pharmacy's prevailing charge to the general public; or
- b) the Department's maximum price plus the established dispensing fee.
  - 1) For generic drugs, the Department's maximum price is calculated as the lowest of:
    - A) the pharmacy's prevailing charge to the general public; or
    - AB) the average wholesale price minus 12 percent plus the established dispensing fee; or
    - BE) the Federal Upper Limit for drugs that have been evaluated as therapeutically equivalent in the Food and Drug Administration's publication entitled Approved Drug Products with Therapeutic Equivalence Evaluations; or
    - established dispensing fee; or
  - CB) the State Upper Limit for drugs listed in the Illinois Formulary for the Drug Product Selection Program and not having an established Federal Upper Limit at the time of listing plus the established dispensing fee; or
  - DE) the average wholesale price for drugs where that price is based upon the actual market wholesale price plus the

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- ~~established dispensing fee; or~~  
 E) the wholesale acquisition cost plus 12 percent.  
 2) For brand name drugs, the Department's maximum price is calculated as the lowest of:

- A) the average wholesale price minus ten percent plus the established dispensing fee; or
- B) the average wholesale price for drugs where that price is based upon the actual market wholesale price plus the established dispensing fee; or
- C) the wholesale acquisition cost plus 8 percent.

(Source: Amended at 25 Ill. Reg. 66 65, effective MAY 11 2001)

## Section 140.446 Over-the-Counter Items

For those over-the-counter items which are covered, the Department shall pay the lower of:

- a) the prevailing charge to the general public; or
- b) the average wholesale price acquisition cost, plus 25 percent the percentage established by the Department for over-the-counter items.

(Source: Amended at 25 Ill. Reg. 66 65, effective MAY 11 2001)

## Section 140.447 Reimbursement

- a) The calculation of average wholesale price and wholesale acquisition cost in the determination of the Department's maximum price (Section 140.445(b)(2)) is made using the standard package size.
- b) If a pharmacy gives discounts to the general public, it must provide the same to Public Aid recipients. If discounts are allowed only to a specific group of people, they shall be extended to a recipient if he or she is a member of the special discount group. Public Aid recipients can constitute a special group and receive a discount, but they cannot be excluded from a discount group just because they are recipients.
- c) The Department will require pharmacies to complete hard copy (paper) claim forms for pharmacy services and attach a Prescribing Practitioner Name Identification Form. A separate hard copy (paper) claim form and Practitioner Name Identification Form is to be required for each recipient and prescribing practitioner.
- d) The Department will authorize an exception for pharmacies, to the requirements of subsection (c) of this Section 140.447, by allowing pharmacy claims to be submitted with the prescribing practitioner's DEA number, Department Medical Assistance Program participating provider identification number or Social Security Number.



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(Source: Amended at 25 Ill. Reg. ~~6665-2~~ effective  
MAY 1 1994 )

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers: Adopted Action:  
100.2590 Amendment  
100.3120 Amendment  
100.7010 Amendment
- 4) Statutory Authority: 35 ILCS 5/203(a)(2)(N); 35 ILCS 5/302; 35 ILCS 5/701
- 5) Effective Date of Amendments: May 9, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 02/09/01, 25 Ill. Reg. 2294
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter? Yes
- 13) Will these amendments replace emergency amendments currently in effect?  
No
- 14) Are there any amendments pending on this Part? Yes
- 15) Summary and Purpose of Amendments: These changes are made pursuant to Public Law 106-489 that includes merchant mariners in the same category as railroad employees, motor carriers and air carriers in that only the state of residence may impose an income tax on these employees.
- 16) Information and questions regarding these adopted amendments shall be

Section Numbers	Proposed Action	IL Register Citation
100.3380	Amendment	02/23/01, 25 Ill. Reg. 2973
100.9720	New Section	03/02/01, 25 Ill. Reg. 3211

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directed to:

Heidi Scott  
Associate Counsel - Income Tax  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
(217) 782-7055

The full text of the adopted amendments begins on the next page:

## DEPARTMENT OF REVENUE

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

PART 100  
INCOME TAX

## SUBPART A: TAX IMPOSED

Section  
100.2000  
100.2050

Introduction  
Net Income (IITA Section 202)

## SUBPART B: CREDITS

Section  
100.2100

Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))  
Replacement Tax Investment Credit (IITA 201(e))  
Investment Credit; Enterprise Zone (IITA 201(f))  
Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))  
Investment Credit; High Impact Business (IITA 201(h))  
Credit Against Income Tax for Replacement Tax (IITA 201(i))  
Training Expense Credit (IITA 201(j))  
Research and Development Credit (IITA 201(k))  
Education Expense Credit (IITA 201(m))  
Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)  
Credit for Residential Real Property Taxes (IITA 208)  
Dependent Care Assistance Program Tax Credit (IITA 210)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS  
OCCURRING PRIOR TO DECEMBER 31, 1986

Section  
100.2200

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope

100.2210

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions

100.2220

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses; Offsets Between Members

100.2230

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards



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- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER  
DECEMBER 31, 1986

- Section  
100.2300 Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986
- 100.2310 Computation of the Illinois Net Loss Deduction
- 100.2320 Determination of the Amount of Illinois Net Loss Carryovers
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring on or After December 31, 1986
- 100.2340 Illinois Net Loss Deductions of Corporations That are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Loss Deductions of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS,  
CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

- Section  
100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))

## SUBPART F: BASE INCOME OF INDIVIDUALS

- Section  
100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

## SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

## DEPARTMENT OF REVENUE

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- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF  
BASE INCOME

Section  
100.3000 Terms Used in Article 3 (IITA Section 301)  
100.3010 Business and Nonbusiness Income (IITA Section 301)  
100.3020 Resident (IITA Section 301)

## SUBPART J: COMPENSATION PAID TO NONRESIDENTS

- Section  
100.3100 Compensation (IITA Section 302)  
100.3110 State (IITA Section 302)  
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

## SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

- Section  
100.3200 Taxability in Other State (IITA Section 303)  
100.3210 Commercial Domicile (IITA Section 303)  
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other than Residents (IITA Section 303)

## SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

- Section  
100.3300 Allocation and Apportionment of Base Income (IITA Section 304)  
100.3310 Business Income of Persons Other than Residents (IITA Section 304) - In General  
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) - Apportionment  
100.3330 Business Income of Persons Other Than Residents (IITA Section 304) - Allocation  
100.3340 Business Income of Persons Other Than Residents (IITA Section 304)  
100.3350 Property Factor (IITA Section 304)  
100.3360 Payroll Factor (IITA Section 304)  
100.3370 Sales Factor (IITA Section 304)  
100.3380 Special Rules (IITA Section 304)  
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))

## SUBPART N: TIME AND PLACE FOR FILING RETURNS

- Section  
100.5000 Time for Filing Returns: Individuals (IITA Section 505)

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100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)  
 100.7090 Reciprocal Agreement (IITA Section 701)  
 100.7095 Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section  
 100.7100 Withholding Exemption (IITA Section 702)  
 100.7110 Withholding Exemption Certificate (IITA Section 702)  
 100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section  
 100.7200 Reports for Employee (IITA Section 703)

SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section  
 100.7300 Returns of Income Withheld from Wages (IITA Section 704)  
 100.7310 Quarterly Returns Filed on an Annual Basis (IITA Section 704)  
 100.7320 Time for Filing Returns (IITA Section 704)  
 100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)  
 100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section  
 100.9000 General Income Tax Procedures (IITA Section 901)  
 100.9010 Collection Authority (IITA Section 901)  
 100.9020 Child Support Collection (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

Section  
 100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section  
 100.9200 Assessment (IITA Section 903)  
 100.9210 Waiver of Restrictions on Assessments (IITA Section 907)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section  
 100.9300 Deficiencies and Overpayments (IITA Section 904)

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100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)  
 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)  
 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)  
 100.5040 Innocent Spouses

SUBPART O: COMPOSITE RETURNS

Section  
 100.5100 Composite Returns: Eligibility  
 100.5110 Composite Returns: Responsibilities of Authorized Agent  
 100.5120 Composite Returns: Individual Liability  
 100.5130 Composite Returns: Required forms and computation of Income  
 100.5140 Composite Returns: Estimated Payments  
 100.5150 Composite Returns: Tax, Penalties and Interest  
 100.5160 Composite Returns: Credit for Resident Individuals  
 100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section  
 100.5200 Filing of Combined Returns  
 100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns  
 100.5205 Election to File a Combined Return  
 100.5210 Procedures for Elective and Mandatory Filing of Combined Returns  
 100.5220 Designated Agent for the Members  
 100.5230 Combined Estimated Tax Payments  
 100.5240 Claims for Credit of Overpayments  
 100.5250 Liability for Combined Tax, Penalty and Interest  
 100.5260 Combined Amended Returns  
 100.5265 Common Taxable Year  
 100.5270 Computation of Combined Net Income and Tax  
 100.5280 Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section  
 100.7000 Requirement of Withholding (IITA Section 701)  
 100.7010 Compensation Paid in this State (IITA Section 701)  
 100.7020 Transacting Business Within this State (IITA Section 701)  
 100.7030 Payments to Residents (IITA Section 701)  
 100.7040 Employer Registration (IITA Section 701)  
 100.7050 Computation of Amount Withheld (IITA Section 701)  
 100.7060 Additional Withholding (IITA Section 701)  
 100.7070 Voluntary Withholding (IITA Section 701)



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100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)  
100.9320 Limitations on Notices of Deficiency (IITA Section 905)  
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section  
100.9400 Credits and Refunds (IITA Section 909)  
100.9410 Limitations on Claims for Refund (IITA Section 911)  
100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section  
100.9500 Access to Books and Records (IITA Section 913)  
100.9505 Access to Books and Records -- 60-Day Letters (IITA Section 913) (Repealed)  
100.9510 Taxpayer Representation and Practice Requirements  
100.9520 Conduct of Investigations and Hearings  
100.9530 Books and Records

SUBPART AA: JUDICIAL REVIEW

Section  
100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section  
100.9700 Unitary Business Group Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section  
100.9800 Letter Ruling Procedures

APPENDIX A Business Income Of Persons Other Than Residents  
TABLE A Example of Unitary Business Apportionment  
TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended

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at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 15, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective MAY - 9 2001.

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## SUBPART F: BASE INCOME OF INDIVIDUALS

**Section 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers**

a) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation. By virtue of the provisions of federal law quoted in subsections (a)(1) through (43) below, compensation that would otherwise be subject to Illinois income taxation and withholding by virtue of IITA Sections 302(a) and 304(a)(2)(B) is subtracted from adjusted gross income in determining Illinois base income pursuant to IITA Section 203(a)(2)(N) and is not subject to Illinois income tax withholding. This subtraction is taken on form IL-1040 on the line entitled "Other subtractions." The statutory basis of the subtraction under Illinois law is IITA Section 203(a)(2)(N) which provides a subtraction from adjusted gross income for an amount equal to all amounts included in such total which are exempt from taxation by this State...by reason of the...statutes of the United States.

1) 49 USCA U-S-C-A- 11502(a) 11504(a) states that no part of the compensation paid by a rail carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title to an employee who performs regularly assigned duties as such an employee on a railroad in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

2) 49 USCA U-S-C-A- 14503(a)(1) 11504(b)(1) states that no part of the compensation paid by a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 135 of this title or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more states as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

3) 46 USCA 11108 states that no part of the compensation paid by a merchant mariner to an employee who performs his regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision of that state, other than the state or subdivision of the employee's residence.

43) 49 USCA U-S-C-A- 40116(f)(2) 11513(a) states that no part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one state, shall be subject to the income tax laws

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of any state or subdivision thereof other than the state or subdivision thereof of such employee's residence and the state or subdivision thereof in which such employee earns more than 50% per-centum of the compensation paid by the carrier to such employee.

b) 49 USCA U-S-C-A- 11108 provides that the State of Illinois may not require the withholding of Illinois income taxes from certain employees of water carriers and merchant mariners. 49 USCA U-S-C-A- 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the seaman. However, this provision of federal law does not affect the liability of these employees for Illinois income taxes, nor does it affect the obligation of such employees to make payments of estimated income taxes as required by IITA Section 803. The provision of federal law merely affects the authority of the State of Illinois to require withholding by employers of such employees.

(Source: Amended at 25 Ill. Reg. 6687, effective MAY 9 2001)

## SUBPART J: COMPENSATION PAID TO NONRESIDENTS

**Section 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)**

a) In general

1) In order for items of compensation paid to an individual who is a nonresident of Illinois at the time of payment to be allocated to Illinois, such compensation must constitute "compensation paid in this State". If the test is met, then all items of such compensation, and all items of deduction directly allocable thereto, are allocated to Illinois under IITA Section 302(a) (except items allocated under IITA Section 301(b)(2), as to which see subsection (c) below). Compensation paid to a nonresident, which is allocated to Illinois, enters into the computation of such individual's net income under IITA Section 202 and is generally subject to withholding under IITA Section 701 (see Sections 100.7000, 100.7010 and 100.7020). The tests for determining whether compensation is paid in Illinois appear in IITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment"



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in the Illinois Unemployment Compensation Act [820 ILCS 405] (and similar unemployment compensation acts of other states). Compensation is paid in Illinois if:

- A) The individual's service is localized in Illinois because it is performed entirely within Illinois;
- B) The individual's service is localized in Illinois although it is performed both within and without Illinois, because the service performed without Illinois is incidental to the individual's service performed within Illinois; or
- C) The individual's service is not localized in any state but some of the service is performed within Illinois and either:
  - i) the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within Illinois, or
  - ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in Illinois.

- 2) The foregoing rules are to be applied in such manner that if they were in effect in other states an item of compensation would constitute compensation "paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in such other state under subsection (a)(1)(B) above, it could not also be compensation paid in Illinois. Pursuant to 50 USC 8-5-e- 574, compensation for military or naval service paid to a nonresident does not constitute "compensation paid in" Illinois even though it meets the tests set forth in subsection (a)(1) above. For further discussion of these tests, see Section 100.7010(a), (d), (e) and (f), dealing with withholding.
- 3) Personal services under personal service contracts for sports performance
  - A) For purposes of subsection (a)(1)(A) above, beginning with taxable years ending on or after December 31, 1992, for all persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on all persons who are members of professional sports teams that are residents of this State...in the case of persons who perform personal services under personal service contracts for sports performance, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State. (IITA Section 304(a)(2)(B)) The amount of income constituting compensation paid in this State to such person shall be determined by multiplying the person's total

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compensation for performing such personal services by a fraction, the denominator of which contains the total number of duty days and the numerator of which is the number of duty days in Illinois during the taxable year.

- B) The income of persons who engage in sports performance in Illinois, but do not perform personal services under personal services contracts of employment, remains apportionable to Illinois. Such income is business income, as defined by IITA Section 1501(a)(1) and Section 100.3010(a) of this Part. Also see IITA Section 304(a) and Section 100.3010(a) of this Part.
- b) Compensation paid for past service
  - 1) A federal law, P.L. 104-95 (4 USC 114), which applies to amounts received after December 31, 1995, limits the power of states to impose income taxation on certain nonresident pension income. This limitation also impacts income received by a nonresident in the form of distributions from many deferred compensation plans. The allocation of distributions to nonresidents from deferred compensation plans which are not governed by that law and which are potentially income taxable in this State is governed by this subsection (b)(1). Where compensation is paid to a nonresident for past service, such compensation will, for the purpose of determining whether and to what extent such compensation is "paid in" Illinois and is allocated to Illinois under IITA Section 302(a), be presumed to have been earned ratably over the employee's last 5 years of service with the employer (or any predecessor or successor of the employer or a parent or subsidiary corporation of the employer), in the absence of clear and convincing evidence that such compensation is properly attributable to a different period of employment or that it was not earned ratably over the appropriate period of employment. Compensation earned in each past year will be deemed compensation paid in Illinois if the individual's service in such year met the tests set forth in subsection (a) above. Compensation paid for past service includes amounts paid under deferred compensation agreements where the amount of compensation is unrelated to the amount of service being currently rendered. Amounts paid to nonresidents under deferred compensation agreements may be allocated to Illinois under IITA Section 302(a) in accordance with this paragraph notwithstanding the fact that amounts paid to nonresidents under such agreements will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will not be subject to withholding (see Section 100.7010(g)).
  - 2) The standards detailed in the previous subsection may be illustrated by the following examples:
    - A) A is a union member employed by B corporation as a factory worker. During the years 1965-1968, A was employed in

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B's factory in Illinois; in 1969, A worked in B's factory in State X. In 1970, as a result of union labor contract negotiations, A received a lump-sum payment of \$500 in lieu of a retroactive wage increase. A is at all times a resident of State X. Unless A establishes, by clear and convincing evidence, facts to support a different result, \$100 is deemed to have been earned in each of the 5 years 1965-1969. Further, \$400 is deemed to have been earned by service localized in Illinois and \$100 by service localized in State X (see subsection (a) above). Therefore, \$400 is allocable to Illinois under IITA Section 302(a).

B) The facts are the same as in the previous example except that A is able to establish that the \$500 constituted a wage increase retroactive to July 1, 1969. In such case, no part of the \$500 is allocable to Illinois, since it was earned by service in 1969 localized in State X.

C) C is a corporate executive. On January 1, 1965, C entered into an agreement with D corporation under which he was to be employed by D in an executive capacity for a period of 5 years. Under the contract C is entitled to a stated annual salary and to additional compensation of \$10,000 for each year, the additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of \$5,000 on C's retirement beginning January 1, 1970. In the event of C's death prior to exhaustion of the account, the balance is to be paid to C's personal representative. C is required to render consultative services to D when called upon after December 31, 1969. During 1970, C is paid \$5,000 while a resident of Florida. The \$5,000 is deemed to have been earned at the rate of \$1,000 in each of the years 1965-1969, since the amount paid is unrelated to C's current consultative services. Whether the \$1,000 earned in each such year is allocable to Illinois under IITA Section 302(a) must be determined by applying the tests set forth in subsection (a) above to each such year.

c) Exceptions to general allocation rules

1) While "compensation" may include items of income taken into account by a nonresident employee under the provisions of 26 USC 8-5-E-401 through 424, such as, for example, amounts received by a beneficiary of an employees' trust (taxable to the employee under 26 USC 8-5-E-402, whether the trust is exempt or non-exempt from federal income tax), or income resulting from a disqualifying disposition of stock acquired pursuant to the exercise of a qualified stock option (taxable to the employee under 26 USC 8-5-E-421(b) above), such

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compensation is not allocated under IITA Section 302(a). Such compensation is allocated under the rules of IITA Section 301(b)(2)(A), i.e., is not allocated to Illinois, whereas compensation which is allocated pursuant to IITA Section 302(a) is allocated to Illinois, if "paid in" this State (see subsections (a) and (b) above). Consequently, a nonresident claiming that compensation which would otherwise constitute compensation paid in Illinois should not be allocated to Illinois under IITA Section 301(b)(2)(A) must establish that such compensation was properly taken into account by such individual under the provisions of 26 USC 8-5-E-401 through 424.

2) Reciprocal exemptions

In any case in which the Director has entered into an agreement with the taxing authorities of another state which imposes a tax on or measured by income to provide that compensation paid in such state to residents of Illinois shall be exempt from such tax, compensation paid in Illinois to residents of such state will not be allocated to Illinois.

3) Federal law. Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation, even though in the absence of specific federal provisions those employees would be subject to Illinois taxation by virtue of IITA Section 302(a).

A) Railroad employees. 49 USC 8-5-E-A-11502(a) 11504(a) provides that no part of the compensation paid by a rail carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of the chapter 105 of Title 49, to an employee who performs regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

B) Motor carrier employees. 49 USC 8-5-E-A-14503(a)(1) 11504(b)(1) states that no part of the compensation paid by a motor carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 135 of Title 49, or by a motor private carrier, to an employee who performs regularly assigned duties in 2 or more states as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

C) Merchant mariner employees. 46 USC 11108 provides that no part of the compensation paid by a merchant mariner to an employee who performs his regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state



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or subdivision of the employee's residence.

De) Air carrier employees. 49 USCA 8-5-E-A- 40116(f)(2) 1513(a) states that no part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one state shall be subject to the income tax laws of any state or subdivision thereof other than the state or subdivision thereof of such employee's residence and the state or subdivision thereof in which such employee earns more than 50% of the compensation paid by the carrier to such employee.

4) The standards set forth in this Section may be illustrated by the following examples:

A) A is a factory worker for B corporation which is located in Illinois. A resides in State X. When A reaches retirement age, he begins receiving a pension from the exempt trust under B's qualified pension plan. For federal income tax purposes, A properly takes his payments into account under the provisions of 26 USC 8-5-E- 402(a). Accordingly, under IITA Section 301(c)(2)(A), A's payments are not allocated to Illinois.

B) The facts are the same as in the previous example except that B corporation does not fund its employees' pension benefits through the creation of a trust or the purchase of annuities, but pays retired employees each year out of corporate funds. For federal income tax purposes, A is required to take his payments into account under 26 USC 8-5-E- 61(a), rather than under 26 USC 8-5-E- 401 through 424. Accordingly, allocation of A's pension payments is governed by IITA Section 302(a) above (see subsections (a) and (b) of this Section).

C) A is a locomotive engineer employed by Interstate railway. Interstate operates a rail yard in East St. Louis, Illinois. Interstate also operates out of St. Louis, Missouri, where it has a rail yard, as well as its administrative and payroll offices. A lives in St. Louis, Missouri. A is assigned to the East St. Louis rail yard and primarily reports to the East St. Louis rail yard of Interstate and drives locomotives for Interstate on trips that go throughout the United States. However, on occasion, A is required to report to the St. Louis, Missouri yard of Interstate and drive locomotives on trips that originate from St. Louis, Missouri. Pursuant to 49 USCA 8-5-E-A- 111502(a) 111504(a), Interstate may only withhold, and A is only subject to, the Missouri personal income tax.

D) A is an airline pilot for World-Wide Airlines. World-Wide provides passenger and freight service to various destinations throughout the United States from Lambert Field

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in St. Louis, Missouri, as well as from the municipal airport in Alton, Illinois. A lives in St. Louis, Missouri, but A reports to and flies out of the World-Wide terminal in Alton, Illinois. A primarily flies to destinations outside of Illinois. Less than 50% of A's compensation (as determined by flight time in Illinois versus flight time everywhere) (see 49 USCA 8-5-E-A- 1512(b)) is earned within Illinois. Therefore, by virtue of 49 USCA 8-5-E-A- 1513(a), A is only subject to Missouri income taxation on his compensation from World-Wide.

E) The facts are the same as in the previous example, except that A pilots commuter planes between Alton and Chicago, Illinois. In this situation, A will be subject to Illinois income taxation by virtue of the fact that A earns more than 50% of his compensation within the State of Illinois.

(Source: Amended at 25 Ill. Reg. 6687 - 7 effective MAY - 9 2001)

## SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

## Section 100.7010 Compensation Paid in this State (IITA Section 701)

a) General rules

1) Withholding is required with respect to "compensation paid in this State" - but see Section 100.7090 with regard to reciprocal withholding exemption agreements for employees residing in certain states. Illinois will recognize reciprocal withholding exemption agreements for those individuals subject to withholding by virtue of P.A. 87-880, to the extent that the state of residence of the team by which they are employed recognizes the reciprocal withholding exemption agreement with respect to individuals employed by teams with Illinois residence. The entire amount of such compensation is subject to withholding if withholding is required under Section 100.7000. The tests for determining whether compensation is paid in this State appear in IITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment" in the Illinois Unemployment Compensation Act [820 ILCS 405] (and similar unemployment compensation acts of other states). Compensation is paid in this State if:

- A) The individual's service is localized in this State because it is performed entirely within this State;
- B) The individual's service is localized in this State although it is performed both within and without this State, because the service performed without this State is incidental to the individual's service performed

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within this State; or

C) The individual's service is not localized in any state but some of the service is performed within this State and either; the base of operations, or if there is not a base of operations, the place from which the service is directed or controlled is within this State, or the base of operations of the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

2B) For purposes of subsection (a)(1)(A), beginning with taxable years ending on or after December 31, 1992, for all persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on all persons who are members of professional sports teams that are residents of this State, . . . in the case of persons who perform personal services under personal service contracts for sports performances, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State. (IITA Section 304(a)(2)(B))

32) The foregoing rules are to be applied in such manner that, if they were in effect in other states, an item of compensation would constitute "compensation paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in such other state under the test of subsection (a)(1)(A) above, it could not also be compensation paid in Illinois.

b) Place of residence of employee

1) Except in the limited circumstances referred to in subsection (a)(1)(C) above and subsections (b)(2) and (3) below, the place of residence of any employee is irrelevant to the determination of "compensation paid in this State", and is, therefore, irrelevant to the determination of whether withholding is required with respect to such employee. However, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) is exempt from withholding.

2) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation and withholding. See Section 100.2590 which provides that certain employees of rail carriers, motor carriers, merchant mariners, and air carriers may only be subject to the income tax laws of any state or subdivision of that state of the employee's residence.

3) Federal law also affects the authority of the State to withhold

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income tax from employees of certain water carriers and merchant mariners. 49 USCA 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the seaman. It should be noted that this provision affects only the authority of this state to have Illinois income tax withheld from wages of these employees. It does not affect the obligation of these employees to pay Illinois income taxes or to make payments of estimated income taxes as required under IITA Section 803.

c) Localization tests

1) If compensation is paid in this State because the service is localized here under either of the tests set forth in subsections (a)(1)(A) and (B) above, no other factors need be considered. In such cases, the place of the base of operations, the place from which the service is directed or controlled, and the place of the individual's residence are all irrelevant. (But see Section 100.7090.)

2) In determining whether an individual's service performed without this State is incidental to his service performed within this State for purposes of the test set forth in subsection (a)(1)(B) above, the term "incidental" means any service which is necessary to or supportive of the primary service performed by the employee or which is temporary or transitory in nature or consists of isolated transactions. The incidental service referred to above may or may not be similar to the individual's normal occupation so long as it is performed within the same employer-employee relationship. That is, an individual who normally performs all of his service in this State may be sent by his employer to another state to perform service which is totally different in nature from his usual work or he may be sent to do similar work. So long as such service is temporary or consists merely of isolated transactions, it will be considered to be incidental to his service performed within this State, and his entire compensation will be subject to withholding.

3) In some cases, it may be difficult to determine whether service performed in another state is incidental to service performed within this State. In any such case, the facts (including any contract of employment) should be carefully considered. In many instances, the contract of employment will provide a definite territorial assignment which will be prima



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facie evidence that the service is localized within such territory. However, the presence or absence of a contract of employment is but one fact to be considered. In every case, the ultimate determination to be made is whether the individual's service was intended to be and was in fact principally performed within this State and whether any service which was performed in another state was of a temporary or transitory nature or arose out of special circumstances at infrequent intervals. The amount of time spent or the amount of service performed without this State should not be regarded as decisive, in itself, in determining whether such service is incidental to service performed within this State. For example, an individual normally performing service within this State might be sent on a special assignment to another state for a period of months. The service in the other state would nevertheless be incidental to service within this State if such special assignment were an isolated transaction.

4) This Section may be illustrated by the following examples:

- A) A is a resident of State X and is a salesman for the B corporation, located in State Y. A's base of operations is his home in State X and his service is controlled from State Y. All of A's customers are located in Illinois. A's compensation is subject to withholding even though he is a nonresident with a State X base of operations, who is directed from State Y, because all of his service is performed in Illinois.
- B) A is a resident of State X and a salesman for the B Corporation, located in State X. A's territory covers the northern part of Illinois. Sporadically, A is requested by B corporation to call on particular customers who are located in State X. The compensation for service which A performs in Illinois and State X is subject to withholding because the service performed in State X is incidental to the service performed in Illinois, since it consists of isolated transactions.
- C) The facts are the same as in the previous example except that A's regular territory covers several counties in Illinois and one or two towns in State X. A goes to the State X towns on a regular basis even though more than 95% of his time and sales are with reference to his Illinois territory. The compensation for service which A performs in Illinois and State X is not localized in Illinois within the meaning of subsection (a)(2) above because the service performed in State X is regular and permanent in nature and is not necessary to or supportive of sales made in Illinois. Whether withholding is required must therefore be determined under subsection

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- (a)(1)(C) above (see subsections (d) and (e) below).
- D) A works for B construction company in Chicago. Occasionally the company obtains a construction job in State X which may last from one to several weeks. A is sent by the company to supervise the construction jobs in State X. The compensation for the service A performs in Illinois and State X is subject to withholding because the service performed in State X, being temporary in nature, is incidental to the service which he performs in Illinois.
- E) A is a resident of Illinois and a buyer for a department store located in State X. Regular buying trips by A to Illinois are incidental to the service performed in State X because they are necessary to and supportive of A's primary duties which are localized in State X and not in Illinois. Compensation for the services which A performs in Illinois and State X is not subject to withholding, notwithstanding that A being a resident, is taxable in Illinois on such compensation under ILTA Sections 201 and 301(a).

d) Base of operations

- 1) The localization tests are not applicable where an individual's employment normally or continually includes service within this State and also services without the State which are not "incidental" to the services performed within this State. In such case, if the individual's base of operations is within this State, his entire compensation will be subject to withholding, but if his base of operations is without this State, none of his compensation will be subject to withholding.
- 2) The term "base of operations" refers to the place or fixed center from which the individual works. An individual's base of operations may be his business office (which may be maintained in his home), or his contract of employment may specify a place at which the employee is to receive his directions and instructions. In the absence of more controlling factors, an individual's base of operations may be the place to which he has his business mail, supplies, and equipment sent or the place where he maintains his business records.
- 3) This Section may be illustrated by the following examples:
  - A) A is a salesman for the B corporation located in Chicago. His territory includes Illinois, State X and State Y. A uses the corporation office in Chicago as a base of operations. The compensation for service performed by A is subject to withholding because the service is not localized in any of the three States in which it is performed, but part of the service is

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performed in Illinois and A's base of operations is in Illinois.

B) A is a salesman for the B corporation located in Chicago. A lives in State X and his territory includes State X and part of Cook County, Illinois. A starts his sales calls from and returns to his home daily. He keeps a catalogue and copies of correspondence from customers at his home, and writes his sales reports there. About once a week he reports to B's sales office in Chicago for consultation with and directions from the sales manager. Communications from customers to A are addressed to the Chicago sales office. A's letters to customers are on letterheads bearing the Chicago sales office address and are sometimes typed by A at home and sometimes dictated by him to a stenographer when he is in the Chicago sales office. Correspondence to A and his paychecks are sometimes picked up by A in Chicago and otherwise are forwarded by the sales office to his home. The duties which A performs at home are sufficient to make his home his base of operations. A's compensation is therefore not subject to withholding because his base of operations is in State X, and part of his service is performed in that state.

C) A, a resident of Illinois, sells products in Illinois, State X and State Y for B corporation, which is located in State Z. A operates from his home, where he receives instructions from his employer, communications from his customers, etc. Once a year, A goes to State Z for a 10 day sales meeting. All of A's compensation is subject to withholding; the service is not localized in any state but part of the service is performed in Illinois and A's base of operations is his home in Illinois.

D) A works for a company whose home office is in State X. He is a regional director working out of a branch office in Illinois. He works mostly in Illinois but spends considerable time in State X. A's base of operations is the branch office in Illinois. Since he performs some service in Illinois and his base of operations is in Illinois, it is immaterial that his source of direction and control is in State X. All of A's compensation for service is subject to withholding.

E) A, a resident of Illinois, is a salesman for the B corporation, which has its main office in State X. A works out of the main office and his territory is divided equally between State X and Illinois. A's compensation is not subject to withholding because his base of operations is in

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State X, and part of his service is performed in that State. F) A, an airplane pilot for B airline, lives in State X and regularly flies between Chicago and cities in other states. A does not have an office but reports to a flight operations office in Chicago which determines flight assignments for A and other pilots reporting to that office. A receives his paycheck and other company mail at the flight operations office in Chicago. A's base of operations is Illinois. He performs some service in Illinois and it is not "incidental" to service performed elsewhere. All of A's compensation for service is subject to withholding.

e) Place of direction or control

1) The permanent place from which the employee's service is directed or controlled is relevant in determining whether wages are subject to withholding if the localization tests are not applicable and it is impossible to determine the base of operation for such individual. In such a case, if both the place from which the individual's service is directed or controlled is within this State, and some of the service is performed within this State, then his entire compensation will be subject to withholding, but if not, none of his compensation will be subject to withholding. For example, a salesman's territory may be so indefinite and so widespread that he will not retain any fixed business office or address but will receive his orders or instructions by mail or wire wherever he may happen to be. In such case, the location of the permanent place from which direction and control is exercised must be determined.

2) The previous subsection may be illustrated by the following examples:

A) A, a resident of State X, is employed as a salesman by B, a corporation with its main office in State Y. B has a permanent branch office and sales supervisor in Cairo, Illinois. A was hired by the branch office and sells merchandise for B in Illinois and other neighboring states as directed by the branch office in telephone calls but he has no place which he uses as a base of operations. All of the compensation for service performed by A for B is subject to withholding because A's service is not localized in any of the states in which he operates and he has no base of operations, but part of his service is performed in Illinois and the place from which the service is directed is in Illinois.

B) A is a salesman residing in State X, who works for a concern whose factory and selling office is in Chicago, Illinois. A's territory covers five states, including Illinois. He does not report, start from or return to the



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Chicago office or from his residence in State X. State X is the territory of another salesman. A does not have a base of operations but would be subject to withholding since part of his service is performed in Illinois and the place from which the service is directed is in Illinois.

C) A, a contractor whose main office is in Illinois, is regularly engaged in road construction work in Illinois and State X. All operations are under direction of a general superintendent whose permanent office is in Illinois. Work in each state is directly supervised by field supervisors working from temporary field offices located in each of the two states. Each field supervisor has the power to hire and fire personnel; however, all requests for manpower must be cleared through the Illinois office. Employees report for work at the field offices. Time cards are sent weekly to the main office in Illinois where the payrolls are prepared. A is hired by a field supervisor in State X; he regularly performs service in both Illinois and State X. In such case, neither the localization nor the base-of-operations test would apply, but A's compensation would be subject to withholding. Part of A's service is performed in Illinois and his service is regarded as controlled from Illinois because the permanent office from which basic direction and control emanates is the Illinois office.

f) When residence is important

1) Residence is a factor in determining whether compensation paid to an individual is subject to withholding only when his service is not localized within some state; he performs no service in the state in which he has his base of operations (if he has a base of operations); and he performs no service in the state from which his service is directed or controlled. In such case, if the individual is a resident of this State, and some of his service is performed within this State, his entire compensation will be subject to withholding. However, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) is exempt from withholding.

2) Residence is also important in determining the Illinois income tax obligations of certain employees of railroads, motor carriers and air carriers (see Section 100.2590 of this Part and subsection (b) above).

3) Subsection (f)(1) above may be illustrated by the following example:

A is a salesman employed by the B company located in State X. His services are directed and controlled from the State X

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office and he has no base of operations. A lives in Illinois but his territory includes State Y and State Z as well as Illinois. All of A's wages are subject to withholding because no part of his service is performed in the state (State X) in which the place from which his services are directed is located, but part of his service is performed in Illinois and his residence is in Illinois.

g) Deferred compensation

1) Under certain contractual unfunded deferred compensation agreements, payments are made by an employer to an employee for service rendered at an earlier date. In many such agreements, the employee receiving deferred compensation payments is not required to render any current service whatsoever, whereas in others he may be required to hold himself available to render advisory and consultative service, if called upon to do so, and to refrain from competition, but in either case, the amount of compensation is unrelated to any service being currently rendered. Payments made under any such deferred compensation agreement will be deemed to meet the tests set forth in subsection (a) above for compensation paid in Illinois if paid to the individual while a resident of this State. Conversely, payments made under such an agreement will be deemed not to be compensation paid in this State and will not be subject to withholding if paid to the individual while a nonresident. Amounts paid to nonresidents under deferred compensation agreements may be allocated to Illinois under IITA Section 302(a) in accordance with Section 100.3120(b)(1) notwithstanding the fact that such amounts will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will not be subject to withholding.

2) Subsection (g)(1) above may be illustrated by the following example:

A is a corporate executive. On January 1, 1965, A entered into an agreement with B corporation under which he was to be employed by B in an executive capacity for a period of 5 years. Under the contract A is entitled to a stated annual salary and to additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of \$5,000 on A's retirement beginning January 1, 1970. In the event of A's death prior to exhaustion of the account, the balance is to be paid to A's personal representative. A is not required to render any service to B after December 31, 1969. During 1970, A is paid \$5,000 while a resident of Illinois. This amount will be subject to withholding, because A's prior service will be deemed to have met one of the tests for compensation paid in Illinois.

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(Source: Amended at 25 Ill. Reg. 6687-2, effective 1/1/01)

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- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: Adopted Action:  
130.120 Amendment  
130.2011 Amendment  
130.2012 Amendment  
130.2105 Amendment
- 4) Statutory Authority: 35 ILCS 120
- 5) Effective Date of Amendments: May 9, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register:  
130.2105 - January 12, 2001, 25 Ill. Reg. 386  
130.120 - January 26, 2001, 25 Ill. Reg. 1169  
130.2011 - January 26, 2001, 25 Ill. Reg. 1169  
130.2012 - January 26, 2001, 25 Ill. Reg. 1169
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made. This is a consolidated version of 2 separate proposed rulemakings.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?  
Yes-- Sections 130.120, 130.2011 and 130.2012
- 14) Are there any amendments pending on this Part? Yes
- | <u>Section Numbers</u> | <u>Proposed Action</u> | <u>IL Register Citation</u>  |
|------------------------|------------------------|------------------------------|
| 130.330                | Amendment              | 05/26/00, 24 Ill. Reg. 7617  |
| 130.401                | Amendment              | 12/29/00, 24 Ill. Reg. 19030 |
| 130.1501               | Amendment              | 02/09/01, 25 Ill. Reg. 2325  |



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Springfield, Illinois 62794

The full text of the adopted amendments begins on the next page:

130.2004 New Section 02/16/01, 25 Ill. Reg. 2676

15) Summary and Purpose of Amendments: Sections 130.120, 130.2011 and 130.2012: The exemptions provided in subsections (28) and (29) of Section 2-5 of the Retailers' Occupation Tax Act were enacted effective January 1, 1996. No sunset date was provided in the Public Act that created these exemptions. Pursuant to the provisions of Section 2-70 of the Retailers' Occupation Tax Act, if a reasonable and appropriate sunset date is not specified in the Public Act that creates the exemption, credit, or deduction, a taxpayer shall not be entitled to take the exemption, credit, or deduction beginning 5 years after the effective date of the Public Act creating the exemption, credit, or deduction and thereafter. The sunset provisions of Section 2-70 are applicable to exemptions enacted after August 4, 1995. As a result, the exemptions provided in subsections (28) and (29) of Section 2-5 of the Retailers' Occupation Tax Act sunset and were not available starting January 1, 2001. This adopted rulemaking amends the Sections that describe these exemptions and lists the last date when these exemptions may be taken.

The amendments to Section 130.2105 codify the test set forth in Moody's Investors Service v. Department of Revenue, 101 Ill.2d 291, used to determine if a publication qualifies as a magazine for purposes of the newsprint and ink exemption. The regulation is also amended to explain that the newsprint and ink exemption does not extend to the conveyance of news by means of tangible personal property other than newsprint and ink, e.g., by means of CD-ROM disc, film or microfilm.

Section 130.2105 articulates a position that downloads of information or data (e.g., books or music downloaded electronically) represent the transfer of an intangible, and thus are not subject to Retailers' Occupation and Use Tax. The title of this regulation is amended to reflect inclusion of this policy. This rulemaking specifically reverses the Department's prior incorrect position that transfers of information or data constitute sales of software subject to Retailers' Occupation Tax and Use Tax. This position was expressed in letter rulings ST-91-0210, ST-94-0461, ST-91-0212 and ST-97-0342, which are hereby revoked by this rulemaking. The regulation clarifies, however, that sales of canned software, as defined in Section 130.1935, continue to be subject to Retailers' Occupation and Use Tax.

16) Information and questions regarding these adopted amendments shall be directed to: Jerilyn Gorden  
Senior Counsel, Sales & Excise Tax  
Terry D. Charlton  
Associate Counsel  
Illinois Department of Revenue (217) 782-6996  
Legal Services Office  
101 West Jefferson

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## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 130

## RETAILERS' OCCUPATION TAX

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130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

## SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
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## SUBPART C: CERTAIN STATUTORY EXEMPTIONS

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130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
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130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines that Dispense Hot Food or Beverages
130.335	Pollution Control Facilities
130.340	Rolling Stock
130.345	Oil Field Exploration, Drilling and Production Equipment
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## SUBPART D: GROSS RECEIPTS

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130.701	

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## Meaning of Gross Receipts

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130.420	Traded-In Property
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130.430	State and Local Taxes Other Than Retailers' Occupation Tax
130.435	Penalties
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130.450	Motor Vehicle Leasing and Trade-In Allowances
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## SUBPART E: RETURNS

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130.501	Monthly Tax Returns--When Due--Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarterly Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.555	Vending Machine Information Returns
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## SUBPART F: INTERSTATE COMMERCE

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130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
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## SUBPART G: CERTIFICATE OF REGISTRATION

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130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements

130.710 Procedure When Security Must be Forfeited

130.715 Sub-Certificates of Registration

130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances

130.725 Display

130.730 Replacement of Certificate

130.735 Certificate Not Transferable

130.740 Certificate Required For Mobile Vending Units

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## SUBPART H: BOOKS AND RECORDS

Section

130.801 General Requirements

130.805 What Records Constitute Minimum Requirement

130.810 Records Required to Support Deductions

130.815 Preservation and Retention of Records

130.820 Preservation of Books During Pendency of Assessment Proceedings

130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

## SUBPART I: PENALTIES AND INTEREST

Section

130.901 Civil Penalties

130.905 Interest

130.910 Criminal Penalties

## SUBPART J: BINDING OPINIONS

Section

130.1001 When Opinions from the Department are Binding

## SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section

130.1101 Definition of Federal Area

130.1105 When Deliveries on Federal Areas Are Taxable

130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

## SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section

130.1201 General Information

130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

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## SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

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130.1301 When Lessee of Premises Must File Return for Leased Department

130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises

130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

## SUBPART N: SALES FOR RESALE

Section

130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale

130.1410 Requirements for Certificates of Resale (Repealed)

130.1415 Resale Number--When Required and How Obtained

130.1420 Blanket Certificate of Resale (Repealed)

## SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

130.1501 Claims for Credit--Limitations--Procedure

130.1505 Disposition of Credit Memoranda by Holders Thereof

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## SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

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130.1601 When Returns are Required After a Business is Discontinued

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130.1610 Cross Reference to Bulk Sales Regulation

## SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

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130.1701 Bulk Sales: Notices of Sales of Business Assets

## SUBPART R: POWER OF ATTORNEY

Section

130.1801 When Powers of Attorney May be Given

130.1805 Filing of Power of Attorney With Department

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## SUBPART S: SPECIFIC APPLICATIONS

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130.1905	Agricultural Producers
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130.1930	Chiropractists, Osteopaths and Chiropractors
130.1935	Computer Software
130.1940	Construction Contractors and Real Estate Developers
130.1945	Co-operative Associations
130.1950	Dentists
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130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
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130.2095	Sales to Railroad Companies
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130.2160	Vendors of Steam
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## ILLUSTRATION A Examples of Tax Exemption Cards

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979;



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amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill.

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Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 15, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective MAY - 4 2001.

## SUBPART A: NATURE OF TAX

## Section 130.120 Nontaxable Transactions

The tax does not apply to receipts from sales:

- a) of intangible personal property, such as shares of stocks, bonds, evidences of interest in property, corporate or other franchises and evidences of debt;
- b) of real property, such as lands and buildings that are permanently attached to the land;
- c) of tangible personal property for purposes of resale in any form as tangible personal property, provided that the purchaser (except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois) has an active registration number or active resale number from the Department and gives such number to the vendor in connection with certifying to the vendor that the sale to such purchaser is nontaxable on the ground of being a sale for resale (see Subparts B and N of this Part);
- d) of personal services, where rendered as such (see various rules relating to particular service occupations); however, for information concerning the tax on persons engaged in the business of making sales of service, see the Regulations pertaining to the Service Occupation Tax Act (86 Ill. Adm. Code 140);
- e) which are within the protection of the Commerce Clause of the Constitution of the United States (see Subpart F of this Part);
- f) which are isolated or occasional (see Section 130.110 of this Subpart);
- g) of newspapers and magazines (see Section 130.2105 of this Part);
- h) which are made to any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this subsection only if the limited liability company is organized and operated exclusively for educational purposes (see Section 130.2005 of this Part);
- i) which are made to any governmental body (see Section 130.2080 of this Part);
- j) of pollution control facilities (see Section 130.335 of this Part);



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- k) of fuel consumed or used in the operation of ships, barges or vessels which are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if such fuel is delivered by the seller to the purchaser's barge, ship or vessel while it is afloat upon such bordering river (see Section 130.315 of this Part);
- l) of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce (see Section 130.340 of this Part);
- m) of a motor vehicle in this State to a nonresident even though such motor vehicle is delivered to such nonresident in this State, if such motor vehicle is not to be titled in this State, and if a driveway decal permit is issued to such motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his home state;
- n) of merchandise in bulk when sold from a vending machine for 1¢ (see Section 130.2135 of this Part);
- o) of food and beverages by a person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (Title 42, USC 3021) and serves meals to participants in the Federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the Federal Act;
- p) of farm chemicals (see Section 130.1955 of this Part);
- q) of manufacturing machinery and equipment that qualifies for exemption under provisions of Section 130.330 of this Part;
- r) of services included in gross receipts for purposes of the Retailers' Occupation Tax and which are designated mandatory service charges by vendors of meals to the extent that the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced. Service charges which are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business are taxable gross receipts;
- s) of any petroleum product, if the seller is prohibited by federal law from charging tax to the purchaser [35 ILCS 120/2-5(16)].
- 1) For example, federal law prohibits sellers from charging tax to Amtrak when it purchases petroleum products. However, federal law does not relieve the seller of Retailers' Occupation Tax liability in these transactions. For that reason, the exemption set out in this subsection is necessary to relieve the seller of Retailers' Occupation Tax liability when making sales of petroleum products to Amtrak.
  - 2) The nontaxable transaction set out above is also applicable to local Retailers' Occupation Taxes imposed by municipalities, counties, the Regional Transportation Authority and Metro East Mass Transit District;

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- t) of farm machinery and equipment, both new and used including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture, or state or federal agricultural programs, including individual replacement parts for the machinery and equipment and including machinery and equipment purchased for lease [35 ILCS 120/2-5(2)] (see Section 130.305);
- u) of distillation machinery and equipment, sold as a unit or kit, certified by the user to be used only for the production of ethyl alcohol that will be used for personal use of the user and not subject to sale or resale [35 ILCS 120/2-5(3)];
- v) of graphic arts machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(4)] (see Section 130.325);
- w) a motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code that is used for automobile renting as defined in the Automobile Renting Occupation and Use Tax Act [35 ILCS 120/2-5(5)];
- x) of personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois [35 ILCS 120/2-5(6)] (see Section 130.2006);
- y) of that portion of the selling price of a passenger car, the sale of which is subject to the replacement vehicle tax of the Illinois Vehicle Code [625 ILCS 5/3-2001] [35 ILCS 120/2-5(7)];
- z) of personal property sold to an Illinois county fair association for use in conducting, operating or promoting the county fair [35 ILCS 120/2-5(8)];
- aa) of personal property sold to any not-for-profit arts or cultural organization that establishes that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USCA 501) and that is organized and operated for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations [35 ILCS 120/2-5(9)];
- bb) of personal property sold by a corporation, society, association, foundation, institution or organization that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise [35 ILCS 120/2-5(10)] (see Section 130.2008);
- cc) of legal tender, currency, medallions, or gold or silver coinage



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issued by the State of Illinois, the government of the United States of America or the government of any foreign country and bullion [35 ILCS 120/2-5(11)], unless such items are transferred as jewelry and therefore subject to tax;

dd) of oil field exploration, drilling and production equipment [35 ILCS 120/2-5(19)] (see Section 130.345);

ee) of photoprocessing machinery and equipment, including repair and replacement parts [35 ILCS 120/2-5(20)] (see Section 130.2000);

ff) of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment, including replacement parts and equipment [35 ILCS 120/2-5(21)] (see Section 130.350);

gg) of fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers [35 ILCS 120/2-5(22)] (see Section 130.321);

hh) of semen used for artificial insemination of livestock for direct agricultural production. [35 ILCS 120/2-5(26)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, the purchaser's signature and date of signing and a statement that the semen purchased will be used for artificial insemination of livestock for direct agricultural production. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

ii) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area. [35 ILCS 120/2-5(30)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and the date of signing, a description of the items being purchased for donation, a statement that the property purchased will be donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area, and that entity's sales tax exemption identification number. The certificates

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shall be retained by the retailer and shall be made available to the Department for inspection or audit;

jj) beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, of personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster. [35 ILCS 120/2-5(31)] Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address, the purchaser's registration number with the Department, if applicable, the purchaser's signature and date of signing, a description of the items being purchased, and a statement that the property purchased is for use in the performance of infrastructure repairs initiated on facilities located in the declared disaster area within six months after the disaster in this State resulting from a State or federally declared disaster area in Illinois or bordering Illinois. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit;

kk) of a transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois [35 ILCS 120/2-5(23)];

ll) until June 1, 2000, of horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes [35 ILCS 120/2-5(27)];

mm) until January 1, 2001, of computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 19 of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(28)] (see Section 130.2011 of this Part);

nn) until January 1, 2001, of personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 19 of the Retailers' Occupation Tax Act [35 ILCS 120/2-5(29)] (see Section 130.2012 of this Part);



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- oo) of tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois [35 ILCS 120/2-5(17)];
- pp) of aggregate exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code [35 ILCS 120/7];
- qq) beginning July 20, 1999, game or game birds purchased at:
- 1) a game breeding and hunting preserve area licensed by the Department of Natural Resources (see Section 3.27 of the Wildlife Code [520 ILCS 5/3.27]);
  - 2) an exotic game hunting area licensed by the Department of Natural Resources (see Section 3.34 of the Wildlife Code [520 ILCS 5/3.34]); or
  - 3) a hunting enclosure approved through rules adopted by the Department of Natural Resources;
- rr) beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This subsection (rr) does not apply to fundraising events:
- 1) for the benefit of private home instruction; or
  - 2) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity [35 ILCS 120/2-5(34)];
- ss) of machinery or equipment used in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act. "High impact service facility" means a facility used primarily for the sorting, handling and redistribution of mail, freight, cargo, or other parcels received from agents or employees of the handler or shipper for processing at a common location and redistribution to other employees or agents for delivery to an ultimate destination on an item-by-item basis, and which:
- 1) will make an investment in a business enterprise project of \$100,000,000 or more;
  - 2) will cause the creation of at least 750 to 1,000 jobs or more in an enterprise zone established pursuant to the Illinois Enterprise Zone Act; and

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- 3) is certified by the Department of Commerce and Community Affairs as contractually obligated to meet the requirements specified in subsection (1j)(1) and (2) within the time period as specified by the certification. The certificate of eligibility for exemption shall be presented by the business enterprise to its supplier when making the initial purchase of machinery and equipment for which an exemption is granted by Section 1j of the Act, together with a certification by the business enterprise that such machinery and equipment is exempt from taxation under Section 1j of the Act and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i];
- tt) of jet fuel and petroleum products sold to and used in the conduct of its business of sorting, handling and redistribution of mail, freight, cargo or other parcels in the operation of a high impact service facility located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act, provided that the business enterprise has waived its right to a tax exemption of the charges imposed under Section 9-222.1 of the Public Utilities Act [35 ILCS 120/1j.1]. High impact service facilities qualifying under the Act and seeking the exemption under Section 1j.1 shall be ineligible for the exemptions of taxes imposed under Section 9-222.1 of the Public Utilities Act. High impact service facilities qualifying under the Act and seeking the exemption under Section 9-222.1 of the Public Utilities Act shall be ineligible for the exemptions of taxes as described in Section 1j.1 of the Act. [35 ILCS 120/1j.2] The certification of eligibility for exemption shall be presented by the business enterprise to its supplier when making the purchase of jet fuel and petroleum products for which an exemption is granted by Section 1j.1 of the Act, together with a certification by the business enterprise that such jet fuel and petroleum product is exempt from taxation under Section 1j.1 of the Act, and by indicating the exempt status of each subsequent purchase on the face of the purchase order [35 ILCS 120/1i]; and
- uu) of a motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.



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[35 ILCS 120/2-5(33)] Exemption certifications must be executed by the purchaser. The certificate must include: the seller's name and address; the purchaser's name and address; the purchaser's registration number with the Department, if applicable; the purchaser's signature and date of signing; a description of the motor vehicle that is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes (see Section 130.2005); the donee's sales tax exemption identification number; and a statement that the motor vehicle is being purchased for immediate donation to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. The certificates shall be retained by the retailer and shall be made available to the Department for inspection or audit.

(Source: Amended at 25 Ill. Reg. 6713 effective 7/1/00)

SUBPART S: SPECIFIC APPLICATIONS

Section 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals

- a) Effective January 1, 1996 through December 31, 2000, sales of computers and communications equipment utilized for any hospital purpose that are sold to persons who lease those items to exempt hospitals are not subject to Retailers' Occupation Tax providing:
- 1) the computers and communications equipment described above must all be purchased for lease to a tax exempt hospital under a lease that has been executed or is in effect at the time of purchase;
  - 2) the lease must be for a period of one year or longer; and
  - 3) the lease must be to a hospital that has an active tax exemption identification number issued by the Department under Section 130.2007 of the Retailers' Occupation Tax Act (see Section 130.2007 of this Part).
- b) Effective January 1, 1996 through December 31, 2000, sales of equipment, other than that specified in subsection (a), used in the diagnosis, analysis, or treatment of hospital patients that is sold to persons who lease that equipment to exempt hospitals is not subject to Retailers' Occupation Tax providing:
- 1) the equipment described above must all be purchased for lease to a tax exempt hospital under a lease that has been executed or is in effect at the time of purchase;
  - 2) the lease must be for a period of one year or longer; and
  - 3) the lease must be to a hospital that has an active tax exemption

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identification number issued by the Department under Section 130.2007 of the Retailers' Occupation Tax Act (see Section 130.2007 of this Part).

- c) The retailer must retain the certification described below in the retailers' books and records to properly document the exemption described in this Section.

- 1) When this exemption may be properly claimed on the purchase of computer or other communications equipment, the purchaser must give the seller a certification stating that the computer or other communications equipment is being purchased for lease to a tax exempt hospital under a lease for a period of one year or longer executed or in effect at the time of the purchase.
- 2) When this exemption may be properly claimed on the purchase of equipment used in the diagnosis, analysis, or treatment of hospital patients, the purchaser must give the seller a certification stating that the equipment is being purchased for lease to a tax exempt hospital under a lease for a period of one year or longer executed or in effect at the time of the purchase, and that the equipment is for use in the diagnosis, analysis, or treatment of hospital patients.
- 3) The certification described in subsections (c)(1) and (c)(2) of this Section must also contain all of the following:
  - A) The seller's name and address;
  - B) The purchaser's name and address;
  - C) A description of the tangible personal property being purchased;
  - D) The purchaser's signature and date of signing;
  - E) The name and address of the hospital and its tax exemption identification number issued by the Department; and
  - F) The date the lease was executed and the lease period.
- d) For purposes of this Section, "hospital patients" means persons who seek any form of medical care including, but not limited to, medical treatment, testing, diagnosis, or therapy at a hospital or at another location under the control and supervision of a hospital. For example, persons who are sent by doctors for X-rays or other tests at qualifying hospitals, even though those persons are not admitted to those hospitals, are considered hospital patients.

(Source: Amended at 25 Ill. Reg. 6713 effective 7/1/00)

Section 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies

- a) Effective January 1, 1996 through December 31, 2000, sales of tangible personal property to a lessor who leases that property to a governmental body are not subject to Retailers' Occupation Tax provided that:



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- 1) the tangible personal property must be purchased for lease to a governmental body under a lease that has been executed or is in effect at the time of purchase;
  - 2) the lease must be for a period of one year or longer; and
  - 3) the lease must be to a governmental body that has an active tax exemption identification number issued by the Department under Section 19 of the Retailers' Occupation Tax Act (see Section 130.2007 of this Part).
- b) When this exemption may be properly claimed, the purchaser must give the seller a certification stating that the property is being purchased for lease to a governmental body, under a lease of one year or longer executed or in effect at the time of the purchase and containing all of the following:
- 1) The seller's name and address;
  - 2) The purchaser's name and address;
  - 3) A description of the tangible personal property being purchased;
  - 4) The purchaser's signature and date of signing;
  - 5) The name of the governmental body and its tax exemption identification number issued by the Department; and
  - 6) The date the lease was executed and the lease period.

(Source: Amended at 25 Ill. Reg. **6713--** effective

MAY 1 2001)

**Section 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings Phonograph-Records, and Their Suppliers; Transfers of Data Downloaded Electronically**

- a) Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings Phonograph-Records
  - 1) Sellers of books, sheet music and musical recordings, including phonograph records, incur Retailers' Occupation Tax liability when they sell any of these items to purchasers for use or consumption and not for resale.
  - 2) Sales of newspapers and magazines are not subject to the tax because of the newsprint and ink exemption (see Section 1 of the Act). In determining whether a publication qualifies as a magazine for the purpose of the newsprint and ink exemption, there is one test that must be met and several other factors to be considered. The test that must be met for a publication to qualify as a magazine is that it must be published periodically in the form of newsprint and ink. Periodically means at least two times per year. The other factors to be considered are whether a member of the public can subscribe to the publication, whether the publication is one that has the basic format of a magazine, including soft covers, individual pages and indexed articles, whether it contains articles and items that have value to the general public, and whether it contains general

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advertising. A publication that has one or more of these characteristics would be considered to be a magazine, assuming the initial test of periodic publication is met. Tangible personal property that conveys news by media other than newsprint and ink does not qualify for the exemption because Section 1 of the Retailers' Occupation Tax Act limits the exemption to news and information conveyed only by means of newsprint and ink. For example, the exemption does not extend to the transfer of news by film, microfilm or CD-Rom discs.

- 3) Information or data that is downloaded electronically, such as downloaded books, musical recordings, newspapers or magazines, does not constitute the transfer of tangible personal property. These types of transactions represent the transfer of intangibles and are thus not subject to Retailers' Occupation and Use Tax. However, downloads of canned software, as defined more fully in Section 130.1935 of this Part, are subject to Retailers' Occupation and Use Tax.

- 4) Sales by exclusively religious, charitable or educational organizations of books or other items containing such organizations' own individualized literature which cannot be bought from persons who are engaged in business are not subject to the Retailers' Occupation Tax even if such sales are made to the public because such sales are not competitive with retailers.

- 5) Sales of school books by schools to their students are not considered to be sales that are made "primarily for the purpose" of the school and so are subject to the Retailers' Occupation Tax.

- b) Suppliers of Persons Who Sell Newspapers, Magazines, Books, Sheet Music and Musical Recordings Phonograph-Records

- 1) Use or Consumption

Persons who engage in selling equipment and supplies and other tangible personal property, to purchasers who sell newspapers, magazines, books, sheet music or musical recordings, including phonograph phonographic records, and who retain and use or consume such equipment and supplies, are engaged in the business of selling tangible personal property to purchasers for use or consumption and incur Retailers' Occupation Tax liability when making such sales. However, the proceeds from the sale of graphic arts machinery and equipment, including repair and replacement parts therefor, both new and used, including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production, are not subject to the tax.

- 2) Resale

A) However, suppliers of persons who sell newspapers, magazines, books, sheet music or musical recordings, including phonograph records, do not incur Retailers'



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Occupation Tax liability when selling tangible personal property to such persons for resale.

B) This latter class of sales includes sales of paper stock, ink, glue, brads, binding tape, staples, phonograph record blanks and other tangible personal property, where such tangible personal property is purchased by persons who sell newspapers, magazines, books, sheet music or musical recordings, including phonograph records, and is incorporated physically by them, as ingredients or constituents, into newspapers, magazines, books, sheet music or musical recordings, including phonograph records which they sell to others.

(Source: Amended at 25 Ill. Reg. 6713, effective MAY 4 2001)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Service Appeal Process
- 2) Code Citation: 89 Ill. Adm. Code 337
- 3) Section Numbers: Action:  
337.30 Repeal Emergency Changes  
337.50 Repeal Emergency Changes  
337.70 Repeal Emergency Changes  
337.80 Repeal Emergency Changes  
337.100 Repeal Emergency Changes
- 4) Statutory Authority: Children and Family Services Act [20 ILCS 505/5]
- 5) Effective Date of Repealer: May 8, 2001
- 6) Will this emergency rule expire before the end of the 150-day period: It will expire at the end of the 150 day tenure of the emergency rulemaking it is repealing.
- 7) Date Filed in the Agency's Principal Office: May 8, 2001
- 8) Reason for Emergency: At its 4/17/01 hearing, JCAR voted an objection to the Department's emergency rule adopted at 25 Ill. Reg. 4283, effective March 19, 2001. In response to the objection the Department has agreed to repeal the rule. This repealer removes the text changes that had been adopted as a result of the March 19, 2001 emergency rulemaking.
- 9) A Complete Description of the Subjects and Issues Involved: The Department is reinstating in Part 337 the opportunity on the part of foster parents and relative caregivers to appeal changes in the placement of children in their care.
- 10) Are there any proposed amendments to this Part pending? Yes

Section Numbers	Proposed Action	Illinois Register Citation
337.20	Amend	25 Ill. Reg. 5458, April 20, 2001
337.30	Amend	25 Ill. Reg. 5458, April 20, 2001
337.50	Amend	25 Ill. Reg. 5458, April 20, 2001
337.70	Amend	25 Ill. Reg. 5458, April 20, 2001
337.80	Amend	25 Ill. Reg. 5458, April 20, 2001
337.100	Amend	25 Ill. Reg. 5458, April 20, 2001
337.170	Amend	25 Ill. Reg. 5458, April 20, 2001
337.220	Amend	25 Ill. Reg. 5458, April 20, 2001

11) Statement of Statewide Objectives: This rulemaking does not expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENTS

- 12) Information and questions regarding this repealer shall be directed to:

Jeff Oowski  
Office of Child and Family Policy  
Department of Children and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498  
217/524-1983  
TDD: 217/524-3715  
FAX: 217/557-0692  
E-Mail Address: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us)

The full text of the affected Sections, as they will exist with the repeal of the emergency amendment, begins on the next page:

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF EMERGENCY REPEAL OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 337

SERVICE APPEAL PROCESS

Section	Purpose
337.10	Purpose
337.20	Definitions
337.30	The Service Appeal Process
337.40	Department and Provider Agency Responsibilities on Appealable Issues
337.50	The Right to a Service Appeal
337.60	Who May Appeal
337.70	What May Be Appealed
337.80	What May Not Be Appealed
337.90	Notices of Department or Provider Agency Decisions
337.100	How to Request a Service Appeal
337.110	Grounds for Dismissal of a Service Appeal Request
337.120	Time Frames for the Service Appeal Process
337.130	Continuing Services During the Service Appeal Process
337.140	Confidentiality During the Service Appeal Process
337.150	Notice Concerning a Service Appeal
337.160	Abandonment of a Service Appeal
337.170	Fair Hearing Appeal Rights
337.180	The Administrative Law Judge
337.190	Record of a Fair Hearing
337.200	Combined Hearings
337.210	Continuances Requested in a Combined Hearing
337.220	The Final Administrative Decision
337.230	Who Receives a Copy of the Final Administrative Decision
337.240	Notice of the Availability of Judicial Review
337.250	Severability of This Part

**AUTHORITY:** Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5].

**SOURCE:** Adopted at 17 Ill. Reg. 1046, effective January 15, 1993; amended at 19 Ill. Reg. 7175, effective June 1, 1995; amended at 19 Ill. Reg. 10557, effective July 1, 1995; emergency amendment at 25 Ill. Reg. 4283, effective March 19, 2001, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 6735, effective May 8, 2001.

### Section 337.30 The Service Appeal Process

The service appeal process for the Department of Children and Family Services consists of a mediation, which is optional, and a fair hearing. Initiation of a



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service appeal does not preclude ongoing discussion between the parties to resolve the appealed issues. If mediation resolves the issues, an agreement is drawn up with the assistance of the mediator and signed by the parties. In some instances the issue on appeal is too immediate to await the final administrative decision on the action. An emergency review may be held in lieu of mediation on the specific issues, and an interim decision will be issued by the reviewer pending the fair hearing and final administrative decision.

## a) Mediation

- 1) The Department shall offer mediation to an appellant within 30 calendar days from the date of appeal in an attempt to resolve his or her issues. The appellant may accept or reject an offer to participate in mediation. No issues addressed and determined by an emergency review may be addressed in mediation. If mediation is successful, an agreement is drawn up, with assistance by the mediator, and signed by the parties. This constitutes a resolution of the fair hearing, but the appellant may reinstate the request for hearing if the agreement is violated.

- 2) If the dispute is not resolved in mediation, or if the appellant rejects the mediation agreement and the Department receives written notice of this rejection at least 15 calendar days after the mediation session, the appellant may then proceed to the fair hearing.

- 3) The individual conducting the mediation shall be trained as a mediator and shall have no prior involvement in the case.

- 4) Any party participating in mediation shall be prohibited from subpoenaing the mediator or documents developed during the mediation process in any subsequent proceeding.

## b) Emergency Review

An emergency review allows for an interim decision pending a fair hearing and can be requested by a party. The request for an emergency review must be in writing and shall be submitted to the Administrative Hearings Unit, Department of Children and Family Services, 160 North LaSalle, 6th Floor, Chicago, Illinois 60601. The emergency review must be requested within ten calendar days of the date of an appeal. A determination will be made whether the issues are appropriate for emergency review. If they are appropriate, the Department shall schedule an emergency review and the reviewer shall issue a decision, which shall include any corrective orders, within ten calendar days from the date of the request for emergency review. The Department shall implement the order within five calendar days from the date the decision was issued by the reviewer. An emergency review is held to consider only the following issues on appeal:

- 1) Lack of Timely Notice Due to Imminent Risk of Harm

A party may request an emergency review within ten calendar days of the date of appeal on any issue where the Department or provider agency has taken action without timely notice because the child was determined to be at imminent risk of harm. The

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reviewer shall consider only whether imminent risk of harm existed to justify the Department or provider agency action without timely notice. If the reviewer determines imminent risk of harm did not exist, the reviewer shall order corrective action.

- 2) Continuing Services Pertaining to Changes in Family Visitation and Placement During the Service Appeal  
Where services pertaining to the family visitation plan and changes in placement remain unchanged because an appeal has been requested within ten calendar days of the date of notice, a party may request an emergency review, if that party has reasonable cause to believe that imminent risk of harm to the child will result if services remain unchanged during the appeal process. The only issue to be considered by the reviewer is whether imminent risk of harm to the child is likely to result from the stay of action. If the reviewer determines imminent risk of harm to the child is likely to result, the reviewer may order corrective action.

## c) Fair Hearing

At a fair hearing, the administrative law judge conducts a hearing in which the Department and all parties may present evidence supporting their position. The administrative law judge then makes a recommendation to the Director of the Department based on the evidence presented at the hearing. The burden of proof shall be on the Department to show by a preponderance of the evidence that the decision made was in the best interests of the child, in accordance with professional social work standards and Department administrative rules.

## Section 337.50 The Right to a Service Appeal

- a) The Department or provider agency shall provide clear written instructions on how to request an appeal. These instructions shall be provided to children and families when the commencement or denial of services occurs, during the intake assessment period, when a decision has been made to change services, during the administrative case review, and at any time services are requested and denied. Instructions shall be provided to foster parents and relative caregivers upon placement of a child, when services are requested and denied or a decision has been made to change services or upon the movement of a child from one substitute care setting to another.
- b) Information and instructions regarding the appeal shall be provided in writing in the appellant's primary language.
- c) If the appellant is unable to request a service appeal in writing the Department or provider agency shall provide assistance to ensure that the request is made in writing.
- d) The appeal may be filed by the appellant or his or her authorized representative.



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**Section 337.70 What May Be Appealed****a) By Families and Children**

Families and children may appeal the following issues:

- 1) the denial, in whole or in part, of child welfare or day care services in accordance with 89 Ill. Adm. Code 303, Access to and Eligibility for Day Care Services, requested by families, children, or an individual legally appointed to represent a minor, incompetent or incapacitated person or the failure of the Department or its provider agency to decide, within 30 calendar days of the date of the request, whether to grant or deny services requested by the parents or children;
- 2) a decision to reduce, suspend or terminate services;
- 3) the choice of a permanency goal or the denial of a request for a change in permanency goal;
- 4) the failure to complete a service plan within 30 calendar days of case opening or the failure to review the service plan within the Department's specified time frames;
- 5) the failure to provide services as specified in the service plan with reasonable promptness or within the time frames as provided in the service plan;
- 6) the frequency or length of family visitation, or failure to arrange parent-child visits when the child is placed out of the home and parental rights have not been terminated, and the frequency or length of sibling visits when children are placed apart;
- 7) a change in the placement of the child; or
- 8) the imposition of unnecessary services or conditions as part of a service plan.

**b) By Foster Parents and Relative Caregivers**

1) Foster parents may appeal the following issues:

- A) decisions made by the Department or its provider agency which directly affect the foster parent, such as payment issues, as defined in 89 Ill. Adm. Code 359, Authorized Child Care Payments;
- B) decisions made by the Department or its provider agency regarding services provided for the benefit of foster children in their care, such as day care, medical, educational, and psychological services;
- C) failure to provide services as specified in the service plan for the benefit of the foster children in their care. This does not include services provided to the biological family, such as family therapy or family counseling; and
- D) a change in the child's substitute care placement. This does not include placement with the biological or adoptive parent(s), or sibling(s), placements for purposes of adoption as ordered by the court, or return to an individual(s) with whom the child resided prior to entering

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substitute care.

**2) Relative caregivers may appeal the following issues:**

- A) decisions made by the Department or its provider agency that directly affect the relative caregiver, such as payment issues as defined in 89 Ill. Adm. Code 359, Authorized Child Care Payments;
  - B) decisions made by the Department or its provider agency regarding services provided for the benefit of foster children in their care, such as day care, medical, educational, and psychological services;
  - C) failure to provide services as specified in the service plan for the benefit of the foster children in their care. This does not include services provided to the biological family, such as family therapy or family counseling; and
  - D) a change in the child's substitute care placement. This does not include placement with the biological or adoptive parent(s), placements for purposes of adoption as ordered by the court, or return to an unrelated individual(s) with whom the child resided prior to entering substitute care.
- 3) Foster parents and relative caregivers have the right to be heard by the Bureau of Quality Assurance on issues specified in 89 Ill. Adm. Code 305, Client Service Planning, Section 305.80, Decision Review, which issues are not appealable under this Part. However, they will not be considered a party to the service appeal on issues which may affect residual parental rights and responsibilities. These include, but are not limited to, issues regarding the child's return home, family visitation, the right to consent to adoption, the right to determine the minor's religious affiliation and other issues which do not directly affect the foster parents themselves or their roles as caregivers of the child. The residual rights and responsibilities of parents are further defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3].**

**Section 337.80 What May Not Be Appealed**

The Administrator of the Administrative Hearings Unit will decide whether an issue is appropriate for fair hearing pursuant to Section 337.70 of this Part. Issues inappropriate for a fair hearing include, but are not limited to:

- a) When the sole issue is one of State or federal law regulating the automatic adjustment of services for classes of children and families;
- b) When the Department has already made a final administrative decision on the issue as a result of a previous appeal;
- c) When the issue is not a service issue as defined in 89 Ill. Adm. Code 302, Services Delivered by the Department, 89 Ill. Adm. Code 303, Access To and Eligibility For Day Care Services, 89 Ill. Adm. Code 304, Access To and Eligibility For Child Welfare Services, 89 Ill. Adm. Code 305, Client Service Planning, and 89 Ill. Adm. Code 359,



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- Authorized Child Care Payment. Such issues are to be appealed through a different appeal and administrative hearing process, as identified in 89 Ill. Adm. Code 435, Administrative Appeals and Hearings;
- d) When the issue regards only the Medical Assistance Program under Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.). Appeal requests regarding Title XIX services should be sent to the Department of Public Aid.
- e) When a court has made a judicial determination or issued an order on the issue being appealed.

## Section 337.100 How to Request a Service Appeal

- a) The appellant shall request a service appeal in writing within 45 calendar days of the date of notice. The appellant shall include in the request his or her name, address, and a statement of the intent to appeal. The appellant may also submit a general statement of the issue(s) appealed, a brief written summary stating his or her position regarding the Department's decision, and may include additional information for the Department to consider as to why the Department should change its decision.
- b) If the appellant wishes the services to remain unchanged during the time of the appeal, the appellant shall request an appeal in writing within ten calendar days of the date of notice.
- c) The request for a service appeal must be in writing and shall be submitted to the Administrative Hearings Unit, Department of Children and Family Services, 160 North LaSalle, 6th Floor, Chicago, Illinois 60601.
- d) If the appellant is unable to request a service appeal in writing the Department or provider agency shall provide assistance to ensure that the request is made in writing.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PUBLIC INFORMATION

NOTICE OF REVOCATION UNDER  
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(g) of the Residential Mortgage License Act of 1987 ("the Act"), 205 ILCS 635/4-5(g) (1998), notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has issued a fine of \$10,000.00 dollars against Platinum Capital Group of Irvine, California, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective May 9, 2001.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF CORRECTIONS TO NOTICE ONLY

- 1) Heading of the Part: White-Tailed Deer Hunting By Use of Bow and Arrow
- 2) Code Citation: 17 Ill. Adm. Code 670
- 3) The Notice of Proposed Amendments being corrected appeared at: 25 Ill. Reg. 6103, dated May 11, 2001
- 4) The information being corrected is as follows:

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: License vendors who previously sold non-resident archery deer permits will no longer have those permits for sale. Those vendors will no longer receive the \$.50 for each non-resident permit sale, and could potentially lose some sales of ancillary products. Since they will still be able to sell hunting licenses, resident archery permits and stamps, the effect should be minimal.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF CORRECTIONS TO NOTICE ONLY

- 1) Heading of the Part: Consignment of Licenses, Stamps and Permits
- 2) Code Citation: 17 Ill. Adm. Code 2520
- 3) The Notice of Proposed Amendments being corrected appeared at: 25 Ill. Reg. 6024 , dated May 11, 2001
- 4) The information being corrected is as follows:

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: "None" is not the correct response to this statement. A small business can bid for an electronic transmission or sale by telephone contract. The less restrictive convenience fee could potentially encourage such a bid.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None



DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF CORRECTIONS TO NOTICE ONLY

- 1) Heading of the Part: Incidental Taking of Endangered or Threatened Species
- 2) Code Citation: 17 Ill. Adm. Code 1080
- 3) The Notice of Proposed Amendments being corrected appeared at: 25 Ill. Reg. 5220, dated April 13, 2001
- 4) The information being corrected is as follows:

A Complete Description of the Subjects and Issues Involved: The proposed rule provides for the orderly authorization of the taking of endangered species as provided in the Illinois Endangered Species Protection Act [520 ILCS 10/5.5]. The Notice erroneously indicated that the proposed rule related to both endangered plants and animals; the proposed rule only relates to the incidental taking of endangered animals.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of May 8, 2001 through May 14, 2001 and have been scheduled for review by the Committee at its June 12, 2001 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
6/23/01	Department of Revenue, Automobile Renting Use Tax (86 Ill Adm Code 190)	3/23/01 25 Ill Reg 4180	6/12/01
6/24/01	Department of Natural Resources, The Illinois Oil and Gas Act (62 Ill Adm Code 240)	3/9/01 25 Ill Reg 3355	6/12/01
6/24/01	Secretary of State, Regulations Under Illinois Securities Law of 1953 (14 Ill Adm Code 130)	3/23/01 25 Ill Reg 4184	6/12/01

**PROCLAMATIONS**

2001-138

**BANGLADESH DAY**

WHEREAS, Illinois is home to several thousand Bangladeshi emigrants; and  
WHEREAS, those individuals and families that struggled for the freedom of their country should be commended; and

WHEREAS, the Bangladeshi community in the State of Illinois hopes to enhance Bangladeshi culture, assist Bangladeshi emigrant students and visitors, and develop and promote friendship and relationships among the citizens of Illinois; and

WHEREAS, the 30th Independence Day of Bangladesh will be celebrated in Illinois on March 24, 2001, on the anniversary of the country's independence;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 24, 2001, as **BANGLADESH DAY** in Illinois.

Issued by the Governor March 7, 2001.

Filed by the Secretary of State March 15, 2001.

2001-139

**BEEF MONTH**

WHEREAS, Illinois produces the highest percentage of quality beef than any other state in the United States; and

WHEREAS, Illinois' beef industry contributes greatly to Illinois' overall economy each year; and

WHEREAS, Illinois Beef Producers market close to 1.5 million head of high quality cattle each year; and

WHEREAS, Illinois' Beef Producers deserve recognition for their dedication in providing humane care of their animals and a safe high quality beef product for our nation's consumers;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 2001 as **BEEF MONTH** in Illinois.

Issued by the Governor March 7, 2001.

Filed by the Secretary of State March 15, 2001.

2001-140

**CHILD ABUSE PREVENTION MONTH**

WHEREAS, child abuse and neglect affect families, communities and society; and

WHEREAS, finding solutions to child abuse and neglect depends on involvement among people throughout Illinois; and

WHEREAS, effective child abuse prevention programs have contributed to the State's dramatic decline in reports of child abuse and neglect, from 139,720 child reports in Fiscal Year 1995 to 103,550 child reports in Fiscal Year 2000; and

WHEREAS, effective child abuse prevention programs succeed because of partnerships created among government entities, social service agencies, schools, religious and social service organizations, law enforcement agencies, businesses and individual citizens; and

WHEREAS, the Illinois Department of Children and Family Services is a

nationally recognized leader in developing innovations aimed at protecting children from abuse and re-abuse and has recently become the nation's largest child welfare agency whose quality services have earned accreditation from the Council on Accreditation for Children and Family Services; and

WHEREAS, all citizens throughout Illinois should learn the warning signs of child abuse and neglect and report suspected cases to the Illinois Child Abuse Hotline (800) 25-ABUSE; and

WHEREAS, all communities should support child abuse prevention programs and support parents to raise their children in safe nurturing environments;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2001 as **CHILD ABUSE PREVENTION MONTH** in Illinois.

Issued by the Governor March 9, 2001.

Filed by the Secretary of State March 15, 2001.

2001-141

**HERMES EXPO INTERNATIONAL DAYS**

WHEREAS, the Hermes Expo 2001 trade show is expected to attract more than 200 exhibitors, many of whom will travel from Greece, Cyprus and Eastern European countries to display their products and services at Hermes 2001. Numerous U.S. manufacturers will also be there with customized products for the affluent and growing marketing group of Greek Americans who will visit the exhibition; and

WHEREAS, the exhibition will also have simultaneous presentations of current films from Greece's entertainment industry, wellness seminars and other similar events presently under development; and

WHEREAS, representatives from businesses and a wide range of industries representing all parts of North America, Greece, Cyprus, the Mediterranean and Eastern Europe will gather for yet another time, to exhibit their products and services to the U.S. market; and

WHEREAS, the grand opening and ribbon cutting will be held at Navy Pier in Chicago on April 28, 2001, for the start of the two-day show;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 28-29, 2001, as **HERMES EXPO INTERNATIONAL DAYS** in Illinois.

Issued by the Governor March 9, 2001.

Filed by the Secretary of State March 15, 2001.

2001-142

**I.O.F. PREVENTION OF CHILD ABUSE WEEK**

WHEREAS, the Independent Order of Foresters, founded in 1874 and dedicated to the preservation of family life, is one of the oldest and largest fraternal benefit societies in the world with more than one million members; and

WHEREAS, the Independent Order of Foresters is the largest non-sectarian fraternal benefit society in the world with prevention of child abuse as its number one priority; and

WHEREAS, the Independent Order of Foresters presented 38 grants in the State of Illinois in 2000; and

WHEREAS, to accomplish one of its major goals of eradicating the blight of child abuse, the Order established its I.O.F. Prevention of the Child Abuse Fund in 1975, which has contributed cash grants to 260 agencies across the United States, Canada and England; and



WHEREAS, the Independent Order of Foresters' strong commitment to public education includes distribution of a series of informative brochures, booklets and films used widely by schools, clinics, libraries, social service and counseling organizations; and

WHEREAS, the National Center for the Prevention of Child Abuse estimates that more than 3 million children will be victims of maltreatment this year;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 15-22, 2001, as I.O.F. PREVENTION OF CHILD ABUSE WEEK in Illinois.

Issued by the Governor March 9, 2001.

Filed by the Secretary of State March 15, 2001.

#### 2001-143

##### MOTHER OF THE YEAR DAY

WHEREAS, in order to provide an appropriate occasion for honoring the Illinois State Mother of the Year, as well as all the mothers in our State, it is a pleasure to call upon all citizens to observe April 22, 2001, as Mother of the Year Day in Illinois; and

WHEREAS, it is not within our power to provide an honor commensurate with the love and devotion that is inherent in motherhood, but it is entirely appropriate that we demonstrate, as best we can, the sincere appreciation we feel for the unselfish guidance, and unfailing loyalty that only a mother can provide; and

WHEREAS, it is especially important at this time, when the sanctity of the home and stability of our society are so vital to the preservation of our free way of life, that we honor the Illinois Mother of the Year as the symbol of those women, who with great patience and understanding, shape our destiny; and

WHEREAS, the 2001 Illinois Mother of the Year is Mrs. Kendra Workman Smiley of East Lynn;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 22, 2001, as MOTHER OF THE YEAR DAY in Illinois.

Issued by the Governor March 9, 2001.

Filed by the Secretary of State March 15, 2001.

#### 2001-144

##### ORDER OF DEMOLAY DAY

WHEREAS, the Order of DeMolay is a Masonic-sponsored organization established over 80 years ago in Kansas City, Missouri; and

WHEREAS, the Order of DeMolay has over 25 chapters in Illinois and more than 700 chapters nationwide; and

WHEREAS, DeMolay teaches young men between the ages of 12 and 21 how to become better persons and leaders by building character and leadership skills; and

WHEREAS, DeMolay is an organization that builds confidence, teaches responsibility, cooperation, and community service, and fosters trust, respect, fellowship, patriotism, reverence and sharing by developing leadership skills, civic awareness, responsibility, and character development through a variety of self-directed, real world applications and activities; and

WHEREAS, masonry strives to make good men better, and the Masonic advisors to the DeMolay chapters strive to help young men become better persons as they grow into adulthood;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 11, 2001, as ORDER OF DEMOLAY DAY in Illinois.

Issued by the Governor March 9, 2001.

Filed by the Secretary of State March 15, 2001.

#### 2001-145

##### PROBATION AND COURT SERVICES OFFICER DAY

WHEREAS, the safety of Illinois citizens and the rights of crime victims require a competent and thorough administration of the criminal justice system; and

WHEREAS, Illinois law requires that all counties must provide full-time probation and court services to provide a wide range of sentencing options and a continuum of sanctions to protect and safeguard every Illinois community; and

WHEREAS, the continuum of sanctions provided by Illinois probation and courts services departments include: pretrial investigations and supervision, intensive supervision, juvenile intake screening, home confinement, detention, electronic monitoring, community service, teen courts, drug monitoring, drug courts, community corrections, pre-sentencing investigations and victim services like dispute resolution and collection of restitution, among many other services; and

WHEREAS, probation and court service professionals work in collaboration with police, prosecutors, the circuit court and community organizations to provide supervision, programs and services to both juvenile and adult offenders; and

WHEREAS, more than 100,000 juvenile and adult offenders are currently sentenced to a continuum of sanctions, receive active probation supervision or are participating in court-ordered programs; and

WHEREAS, approximately 3,000 dedicated probation, detention and court services officers supervise the vast majority of Illinois' juvenile and adult offenders; and

WHEREAS, these probation, detention and court services officers work in a professional and diligent manner and continuously seek avenues to improve the administration of criminal justice in Illinois;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April, 26, 2001, as PROBATION AND COURT SERVICES OFFICER DAY in Illinois.

Issued by the Governor March 9, 2001.

Filed by the Secretary of State March 15, 2001.

#### 2001-146

##### SIBLINGS DAY

WHEREAS, during the past century, families have changed dramatically - both parents often have to work outside of the home, many children are placed within day care systems and family size is shrinking due to the demands of lifestyle changes; and

WHEREAS, with both parents often having to work in today's society, the role of the sibling is more prevalent than ever; and

WHEREAS, while children continue to depend upon and look to the mother and father for love and guidance, siblings play an increasingly crucial role in a child's development; and

WHEREAS, our brothers and sisters are our best and closest friends who



share our earliest experiences in life with a bond that grows stronger into adulthood and one's life; and

WHEREAS, our older brothers and sisters teach us and provide role models for us, and our younger brothers and sisters give us the opportunity to learn how to nurture and take care of others; and

WHEREAS, Sibling's Day follows the spirit of Mother's Day, Father's Day and Grandparent's Day in allowing us to honor those members of our immediate families who have helped shape our lives and values;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 10, 2001, as SIBLING'S DAY in Illinois.

Issued by the Governor March 9, 2001.

Filed by the Secretary of State March 15, 2001.

#### 2001-147

#### HAVEN OF REST MISSIONARY BAPTIST CHURCH AND REV. DR. GEORGE M. BUTLER DAY

WHEREAS, the Haven of Rest Mission was founded on January 7, 1964, by 17 Christian men and women who felt the need to form a new Christian organization; and

WHEREAS, later that same month, the Haven of Rest Mission was organized as a church and renamed Haven of Rest Missionary Baptist Church, and Rev. John L. Connor was voted unanimously as the Leader-Pastor, indefinitely; and

WHEREAS, by the end of January 1964 the church had outgrown the space at 63rd and Greenwood, and a new place was founded at 74th and Ingleside, where it remained until December 21, 1977, when the land site at 7925 South Chicago Avenue was purchased and the beautiful, new church edifice was built; and

WHEREAS, in 1989, Rev. Dr. George M. Butler, one of the original members of Haven of Rest Missionary Baptist Church, was elected as pastor; and

WHEREAS, Dr. Butler is one of the most prominent and renowned ministers of Chicago and a humble servant of God; and

WHEREAS, he is a retired Chicago School Administrator, and is widely respected and recognized throughout the entire community on matters of civic, social, political, and racial concerns; and

WHEREAS, Dr. Butler has received numerous awards and certificates of service and recommendation and is affiliated with several groups, including the Bethlehem District Association, Operation PUSH, the NAACP, and the Mid America Coalition of Baptist Churches; and

WHEREAS, Dr. Butler has instituted several highly spiritual programs, and the church continues to serve the community at large by donating time and money to the Food Pantry, Girl Scouts of Chicago, and AIDS Project;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 18, 2001, as HAVEN OF REST MISSIONARY BAPTIST CHURCH and REV. DR. GEORGE M. BUTLER DAY in Illinois.

Issued by the Governor March 14, 2001.

Filed by the Secretary of State March 15, 2001.

#### 2001-148

#### WILLIAM KETCHUM DAY

WHEREAS, Bill Ketchum was born in Blackwell, Oklahoma, and graduated from Oklahoma University and Harvard University's Advanced Management Program; and

WHEREAS, Bill Ketchum is a kind and considerate man who is admired by his many friends, family, and associates; and

WHEREAS, Bill Ketchum is a loving husband to his wife, Merrily, a caring father to his children, Kelly, Steve and Heather, and devoted to his four grandchildren; and

WHEREAS, Bill Ketchum came to Illinois in 1985 to become Vice President of AT & T's Information Services unit, developing a successful career in the telecommunications industry that has spanned more than 35 years, culminating in his former position as President of the Central Region of AT & T; and

WHEREAS, Bill Ketchum has been an active civic leader in Chicago, serving on the prestigious Civic Committee of the Commercial Club and on the boards of Metropolitan Family Services, the Museum of Contemporary Art and the Goodman Theatre; and

WHEREAS, Bill Ketchum's commitment to civic and community involvement has been exemplified by his willingness to serve as President and Chief Executive Officer of the United Way Crusade of Mercy; and

WHEREAS, Bill Ketchum worked intensively to improve the United Way by strengthening donor relations and increasing the amount of people served by the United Way; and

WHEREAS, Bill Ketchum has worked throughout Chicago's neighborhoods and suburbs to build support for the United Way's mission; and

WHEREAS, Bill Ketchum will officially "retire" as Chief Executive Officer of the United Way to pursue his interests in reading, golf and tennis;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 15, 2001, as WILLIAM KETCHUM DAY in Illinois.

Issued by the Governor March 14, 2001.

Filed by the Secretary of State March 15, 2001.

#### 2001-149

#### YOUTH ART MONTH

WHEREAS, art education contributes powerful educational benefits to all elementary, middle, and secondary students; and

WHEREAS, art education develops students' creative problem-solving and critical thinking abilities; and

WHEREAS, art education teaches sensitivity to beauty, order, and other expressive qualities; and

WHEREAS, art education gives students a deeper understanding of multi-cultural values and beliefs; and

WHEREAS, art education reinforces and brings to life what students learn in other subjects; and

WHEREAS, art education interrelates student learning in art production, art history, art criticism, and aesthetics; and

WHEREAS, our national leaders have acknowledged the necessity of including arts experiences in all students' education; and

WHEREAS, support should be given to art teachers as they attempt to strengthen art education in their schools and communities;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim March 2001 as YOUTH ART MONTH in Illinois

Issued by the Governor March 14, 2001.

Filed by the Secretary of State March 15, 2001.



## 2001-150

## AUTISM AWARENESS MONTH

WHEREAS, autism is a severely incapacitating, lifelong developmental disability resulting in significant impairment of an individual's ability to learn, develop healthy interactive behaviors, and understand verbal, nonverbal and reciprocal communication; and

WHEREAS, autism is the third most common developmental disability affecting an estimated 500,000 individuals nationally and one in every 500 individuals in the State of Illinois; and

WHEREAS, autism is the result of a neurological disorder affecting the functioning of the brain, however, few members of the general public understand this complex syndrome; and

WHEREAS, although a cure for autism has not been discovered, persons with autism can be helped to reach their greatest potential. Accurate, early diagnosis and appropriate education and intervention are vital to the future growth and development of the individual; and

WHEREAS, support groups, such as the Autism Society of Illinois and Illinois Chapters of the Autism Society of America, have dedicated years of service in the avocation for the rights, humane treatment and appropriate education of all persons with autism; and

WHEREAS, these groups remain committed to their cause and to educating families, professionals and the public to better understand this disability; and

WHEREAS, autism is a complex disability that requires increased research to one day find a cure;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2001 as AUTISM AWARENESS MONTH in Illinois.

Issued by the Governor March 16, 2001.

Filed by the Secretary of State March 22, 2001.

## 2001-151

## CALL BEFORE YOU DIG MONTH

WHEREAS, the Joint Utility Locating Information for Excavators (JULIE) and its utility members are promoting the Illinois One-Call System, which prevents damage to underground facilities, reduces service interruptions and costly repairs and saves lives; and

WHEREAS, JULIE Inc. is a not-for-profit organization that represents over 930 member companies in Illinois and serves the entire State of Illinois outside the City of Chicago; and

WHEREAS, Illinois law requires all persons digging to call JULIE at least two working days prior to the start of excavation and to begin that project within 14 calendar days from the call;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2001 as CALL BEFORE YOU DIG MONTH in Illinois.

Issued by the Governor March 16, 2001.

Filed by the Secretary of State March 22, 2001.

## 2001-152

## HOME EDUCATION WEEK

WHEREAS, the State of Illinois is committed to excellence in education; and

WHEREAS, the State of Illinois recognizes the importance of family support in educational programs; and

WHEREAS, home education was proven successful in the lives of George Washington, Thomas Edison, Helen Keller, Agatha Christie, Franklin Roosevelt, and others and may be administered in Illinois under statutory requirements of the School Code;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2-6, 2001, as HOME EDUCATION WEEK in Illinois.

Issued by the Governor March 16, 2001.

Filed by the Secretary of State March 22, 2001.

## 2001-153

## PARLIAMENTARY LAW MONTH

WHEREAS, April is the birth month of Thomas Jefferson, author of the first American manual of parliamentary practice; and

WHEREAS, the National Association of Parliamentarians was organized in June 1930 to further the growing interest in parliamentary rules in both public and private schools, and to bring into closer cooperation the parliamentarians of the country; and

WHEREAS, parliamentarians serve local, State, national, and international organizations by meeting presiding officers, bylaw consultants, lecturers, workshop presenters and providing opinions on parliamentary matters; and

WHEREAS, it is fitting that we reflect upon the importance of parliamentary procedure in the meetings of our private and public organizations; and

WHEREAS, parliamentarians strive to uphold the basic principles of parliamentary procedure, which protects individual rights and majority rule and assumes orderly deliberation;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2001 as PARLIAMENTARY LAW MONTH in Illinois.

Issued by the Governor March 16, 2001.

Filed by the Secretary of State March 22, 2001.

## 2001-154

## PERIODONTAL DISEASE AWARENESS MONTH

WHEREAS, according to the United States Surgeon General's Report on Oral Health, oral health is integral to the general health and well-being of all Americans, and not all of our citizens are achieving the same degree of oral health; and

WHEREAS, oral health has improved since the 1950s, and many Americans are still affected by disparities in oral health status and access to care, particularly low income and members of racial/ethnic minorities; and

WHEREAS, periodontal disease is one of the most prevalent chronic diseases in America affecting more than 50 million people, and there remains an underutilization of safe and effective means of preventing and treating periodontal disease with new medical and mechanical innovations; and

WHEREAS, periodontal disease not only causes pain and suffering for the individual, but it also costs Illinois' government, citizens and businesses



significant amounts of money in direct medical costs, as well as absenteeism and lost productivity; and

WHEREAS, there is a need to educate and provide information to all Illinois citizens on these important oral health facts related to the prevention and treatment of periodontal disease; and

WHEREAS, the State of Illinois is pleased to join with employers, healthcare providers and professional organizations throughout the State who are involved in educational efforts to increase the public's awareness and understanding of periodontal disease and new methods for its treatment; and

WHEREAS, all Illinois citizens affected by periodontal disease are encouraged to discuss new treatment modalities with their dental care provider;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

April 2001 as PERIODONTAL DISEASE AWARENESS MONTH in Illinois.

Issued by the Governor March 16, 2001.

Filed by the Secretary of State March 22, 2001.

#### 2001-155

##### TELECOMMUNICATOR WEEK

WHEREAS, public safety telecommunications, specialists in operating state-of-the-art radio and computer-aided communications systems, are a cornerstone of the public safety community; and

WHEREAS, every hour of every day telecommunications access, monitor and disseminate information of critical importance to the safety of public officials and the success of public safety goals; and

WHEREAS, these professional men and women effectively and efficiently function to help ensure the safety and protection of life, property and individual rights of the citizens of the State of Illinois; and

WHEREAS, it is appropriate that we demonstrate our appreciation of their knowledge, training, service and dedication;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

April 9-13, 2001, as TELECOMMUNICATOR WEEK in Illinois.

Issued by the Governor March 16, 2001.

Filed by the Secretary of State March 22, 2001.

#### 2001-156

##### JAKE HARTFORD DAY

WHEREAS, Jake Hartford has been at the top of the Saturday Morning Newscasts in Chicago for an entire DECADE; and

WHEREAS, Jake Hartford is the crown jewel of the radio talent on NEWSTALK 890 AM, and his 5 a.m. to 9 a.m. slot is the cornerstone of the week's programming, serving all those who rise early with the sun on Saturdays; and

WHEREAS, Jake Hartford is a close confidant of my good friend Jim Edwards; and

WHEREAS, Jake Hartford has led a fascinating and well-rounded life, excelling not only in radio broadcasting, but in cliff-diving, mountain climbing and raising pigs at his beloved Green Jakers (or so he says); and

WHEREAS, Jake has formed a true partnership with his great love, Ms. Dill Pickle of 1982 and has passed on his pleasant disposition, wit and good looks to his two sons; and

WHEREAS, Jake Hartford will not rest until he rules over all the airwaves

of Chicago, sewing his unending wisdom, keen insights and fine-tuned perspective on all matters of life in the minds and hearts of all those with a radio;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

March 17, 2001, as JAKE HARTFORD DAY in Illinois.

Issued by the Governor March 19, 2001.

Filed by the Secretary of State March 22, 2001.

#### 2001-157

##### ASSYRIAN NEW YEAR DAY

WHEREAS, the Assyrian New Year is one of the most important religious and celebrated holidays of the Assyrian community; and

WHEREAS, the color green will dominate the New Year festivities, as it stands for "New Life"; and

WHEREAS, the Assyrian American community has made significant contributions in all areas of life, including education, medicine, science, business, arts, government and public service in Illinois; and

WHEREAS, Joseph Tamraz, the Midwest Regional Director for the Assyrian American National Federation, has announced that the federation has many activities to mark this New Year; and

WHEREAS, the Assyrian New Year Parade will be held Sunday, April 1, 2001, on King Sargon Boulevard, between Peterson and Pratt Roads in Chicago, Illinois; and

WHEREAS, on April 1, 2001, the Assyrian American community will celebrate their New Year 6751;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

April 1, 2001, as ASSYRIAN NEW YEAR DAY in Illinois.

Issued by the Governor March 22, 2001.

Filed by the Secretary of State March 29, 2001.

#### 2001-158

##### CROATIAN CATHOLIC UNION DAY

WHEREAS, the Croatian Catholic Union of USA and Canada, a fraternal benefit society, was established in 1921; and

WHEREAS, as a fraternal, religious, charitable, humanitarian, educational, and patriotic organization, the Croatian Catholic Union has been at the forefront of championing the most sacred ideals of the Croatian people throughout Croatian Diaspora, the homeland of Croatia and across North America; and

WHEREAS, the International President Melchior Masina has announced that the 80th anniversary celebration will take place May 20, 2001; and

WHEREAS, a solemn Mass of Thanksgiving will be led by His Excellency Archbishop of the Archdiocese of Zadar, Croatia, and most Reverend Ivan Prendja of St. Jerome Croatian Church in Chicago, along with clergy from the United States, Canada, and Croatia; and

WHEREAS, following the mass will be a reception and Jubilee Banquet at Lexington Hall in Palos Hills; and

WHEREAS, over 400,000 Croatian Americans live in the State of Illinois; and

WHEREAS, the Croatian Americans have played a significant part in the



progress of Illinois and have proudly shared their culture, heritage, and talents with our State;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 20, 2001, as CROATIAN CATHOLIC UNION DAY in Illinois.

Issued by the Governor March 22, 2001.

Filed by the Secretary of State March 29, 2001.

2001-159

#### **MCHENRY COUNTY CONSERVATION DISTRICT DAY**

WHEREAS, the McHenry County Conservation District was established by voter referendum on July 1, 1971; and

WHEREAS, the mission of the McHenry County Conservation District (MCCD) is to acquire and preserve land as open space for the education, pleasure, and recreation of the public, while providing a legacy for future generations; and

WHEREAS, the District exists to teach citizens about their environment, and through special events, school programs, the Wildlife Resource Center, workshops and programs, signage and literature, people of all ages enjoy educational and recreational opportunities throughout McHenry County; and

WHEREAS, school field trips and outreach programs have been conducted for over 11,000 students and teachers, and over 1,600 people have been served through special interest programs conducted for youth-serving organizations such as Girl Scouts, Boy Scouts, 4-H and others; and

WHEREAS, this year marks the 30th anniversary of the formation of the MCCD; and

WHEREAS, after 30 years of acquiring and preserving land, the District currently owns or manages 13,000 acres, including 13 Illinois State Nature Preserves, out of the nearly 391,000 acres that make up McHenry County; and

WHEREAS, these land holdings include just under 3.5 percent of the county's land, bringing MCCD closer to its five-year goal of preserving 5 percent of the total land in McHenry County as open space by 2002; and

WHEREAS, it is critical that land acquisition be focused on areas that are facing the greatest rate of development and that we secure land while it is still available. Diverse landscape acquisitions will help preserve the aesthetic appeal of McHenry County and promote the county's economic health through tourism, recreational business development and corporate relocation decisions;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 3, 2001, as MCHENRY COUNTY CONSERVATION DISTRICT DAY in Illinois.

Issued by the Governor March 22, 2001.

Filed by the Secretary of State March 29, 2001.

2001-160

#### **POLKI 2000-CHICAGO EXHIBIT DAYS**

WHEREAS, the Polish Polki 2000-Chicago Exhibit will be held at the Polish Museum of America on April 6-26, 2001; and

WHEREAS, the Polki 2000-Chicago is a photographic/essay exhibit spotlighting the contributions of contemporary Polish American women in the Chicago area; and

WHEREAS, Polki 2000-Chicago consists of black and white photographs of Polish women, who emigrated to the United States, representing various diverse

professions; and

WHEREAS, Krystyna Cygielska, Jolanta Stawiarska and Ewa Sulkowska-Bierezin are the organizers of Polki 2000-Chicago, and the exhibit is co-sponsored by the Illinois Arts Council and the Consulate General of the Republic of Poland in Chicago; and

WHEREAS, this exhibition offers the citizens of Illinois the opportunity to learn more about women who are important to the community and who endeavor to nurture Polish heritage;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 6-26, 2001, as POLKI 2000-CHICAGO EXHIBIT DAYS in Illinois.

Issued by the Governor March 22, 2001.

Filed by the Secretary of State March 29, 2001.

2001-161

#### **ROTARY WEEK**

WHEREAS, the Governor's Office of Ethnic Affairs will sponsor a Rotary Club of Chicago exhibit at the James R. Thompson Center on April 2-7, 2001; and

WHEREAS, the Rotary was founded on February 23, 1905, in Chicago; and

WHEREAS, Rotary District 6450 is the founding district and Rotary District 6440 is the home district of the international movement of Rotary; and

WHEREAS, Rotary is now in 163 countries with 29,968 clubs and an international membership of 1,176,169; and

WHEREAS, District 6440 and 6450 are both involved in multiple unique international service programs, including Polio Plus, an international program to eradicate poliomyelitis through the world and Gift of Life, which brings children in need of radical surgical procedures from international communities that do not have advanced medical care to Chicago for attention and surgery; and

WHEREAS, the object of Rotary is to encourage and foster the ideal of service as a basis of worthy enterprise. Members serve under the motto "One profits most who serves best";

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2-7, 2001, as ROTARY WEEK in Illinois.

Issued by the Governor March 22, 2001.

Filed by the Secretary of State March 29, 2001.

2001-162

#### **ALPHA KAPPA ALPHA SORORITY DAYS**

WHEREAS, Alpha Kappa Alpha is the first Greek-lettered organization founded on the campus of Howard University in January 1908. The founding member, Ethel Hedgeman Lyle, is a native of St. Louis, Missouri; and

WHEREAS, Alpha Kappa Alpha is a non-profit service-oriented organization with a membership base of over 150,000 college-trained women. There are more than 900 graduate and undergraduate chapters in the continental United States, the Virgin Islands, the Bahamas, England, Germany, Africa and Japan; and

WHEREAS, the IVY AKAdemy serves as a comprehensive center for all the educational and human resources development experiences for most community services programs provided by Alpha Kappa Alpha Sorority, Inc.; and

WHEREAS, the International program theme through 2002 is *BLAZING NEW TRAILS*, which focuses on global Leadership Development. The five areas



included in the international program and implemented in the IVY AKADEMY are Education, Health, The Black Family, Economic Empowerment and the Arts; and

WHEREAS, Alpha Kappa Alpha Sorority, Inc. will convene the 67th Central Regional Conference on April 19-22, 2001, at the Crowne Plaza Hotel in Springfield, Illinois; and

WHEREAS, over 1,000 delegates from Illinois, Indiana, Kentucky, Minnesota and Wisconsin will join the host members from the Springfield area for the historic first conference in the new millennium;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 19-22, 2001, as ALPHA KAPPA ALPHA SORORITY DAYS in Illinois.

Issued by the Governor March 23, 2001.

Filed by the Secretary of State March 29, 2001.

#### 2001-94 (REVISED)

##### HIGHLANDS PRESBYTERIAN CHURCH 50TH ANNIVERSARY AND ROBERT A. ROUNCE DAY

WHEREAS, since 1951 the leadership and membership of the Highlands Presbyterian Church in LaGrange, Illinois, have been serving the local community and world wide missions; and

WHEREAS, the church's leader, Reverend Robert A. Rounce, has served the western suburban Chicago Community as a board member of social service organizations, civic groups, and charitable initiatives for the past 30 years with great distinction; and

WHEREAS, Reverend Rounce has long served as the main chaplain at LaGrange Community Memorial Hospital and the Pleasantview Fire Protection Agency; and

WHEREAS, Robert and Eleanor Rounce have grown by leading building renovations, youth groups, adult programs, and national Presbyterian U.S.A. camps for decades; and

WHEREAS, Reverend Rounce retires from regular ministry in March 2001 on the occasion of the church's 50th Anniversary;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim, March 1, 2001, as HIGHLANDS PRESBYTERIAN CHURCH 50TH ANNIVERSARY AND ROBERT A. ROUNCE DAY in Illinois.

Issued by the Governor March 23, 2001.

Filed by the Secretary of State March 29, 2001.

#### 2001-163

##### INTERGENERATIONAL WEEK

WHEREAS, generations of all ages learn from one another and benefit by sharing life experiences; and

WHEREAS, seniors enjoy volunteering time in schools and participating in extracurricular activities; and

WHEREAS, students who have older mentors improve their academic performance and social behavior; and

WHEREAS, seniors instill in young people a respect for themselves and others; and

WHEREAS, children should be exposed to the wisdom and talent of seniors to whom they look upon as role models; and

WHEREAS, intergenerational programs link seniors with young people and also makes seniors feel helpful and needed; and

WHEREAS, the Illinois Department on Aging is a strong proponent of intergenerational programs and encourages Illinoisans of all ages to participate in a program in their community; and

WHEREAS, children need to have interaction with older adults to have a realistic perception of the aging process; and

WHEREAS, Intergenerational Week is celebrated throughout the United States the third week of May 2001 and Illinois is promoting the benefits of intergenerational programs to all ages through a statewide teleconference on May 16th;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 13-19, 2001, as INTERGENERATIONAL WEEK in Illinois.

Issued by the Governor March 23, 2001.

Filed by the Secretary of State March 29, 2001.

#### 2001-164

##### IRENE AND BRUNO BONCZYK DAY

WHEREAS, Irene and Bruno Bonczyk will be celebrating 50 years of marriage on April 22, 2001; and

WHEREAS, Irene Ilkanich was born April 11, 1931, in Chicago, Illinois; and WHEREAS, Bruno was born April 26, 1922, in Chicago, Illinois; and

WHEREAS, Bruno served in the United States Army and was employed for 42 years with the Alton Box Board Company as a designer, where he obtained four U.S. Patents for his innovative work in the packaging industry; and

WHEREAS, Irene provided an untold amount of energy as a housewife, and later she was employed by J.C. Penney and Millers Mutual Insurance Company; and

WHEREAS, Irene and Bruno raised three wonderful children: Bruce, Barbara, and Beverly, who have graced them with three grandchildren; and

WHEREAS, Irene and Bruno have been lifelong residents of Illinois and have served the community of East Alton, Illinois, through their personal endeavors and efforts; and

WHEREAS, Irene and Bruno understand that all that is important in life - the love and respect of family and friends and their health - is their's to treasure on their 50th Wedding Anniversary;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 22, 2001, as IRENE AND BRUNO BONCZYK DAY in Illinois.

Issued by the Governor March 23, 2001.

Filed by the Secretary of State March 29, 2001.

#### 2001-165

##### ALLERGY AWARENESS WEEK

WHEREAS, hundreds of Americans die each year due to food induced anaphylaxis. The deaths are caused by individuals unknowingly eating a food containing an ingredient, which they were allergic to; and

WHEREAS, anaphylaxis is a sudden, severe allergic reaction involving major organs in the body simultaneously. In severely allergic individuals it can cause death in a matter of minutes; and

WHEREAS, children are the largest group affected by food allergies. Researchers estimate 6 to 7 million Americans have food allergies. Symptoms can include hives, vomiting, diarrhea, respiratory distress, and swelling of the throat; and



WHEREAS, eight foods cause 90 percent of food allergy reactions. These foods are shellfish, milk, eggs, nuts, peanuts, soy and wheat; and  
 WHEREAS, there is no cure for potentially fatal food allergies. Strict avoidance of the offending food is the only way to avoid a reaction; and  
 WHEREAS, the Food Allergy Network (FAN) is a national, nonprofit organization dedicated to educating the public about food allergies and anaphylaxis, a potentially life threatening allergic reaction;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 6-12, 2001, as FOOD ALLERGY AWARENESS WEEK in Illinois.

Issued by the Governor March 26, 2001.  
 Filed by the Secretary of State March 29, 2001.

#### 2001-166

##### ANDREW PENDLEY DAY

WHEREAS, Andrew Pendley of Buffalo Grove, Illinois, has been selected as the high school top youth volunteer in Illinois for 2001; and  
 WHEREAS, Andrew was nominated by Adlai E. Stevenson High School in Lincolnshire, Illinois; and

WHEREAS, Andrew is a senior at Adlai E. Stevenson High School; and

WHEREAS, Andrew started an organization called "BookSouth", that collects new and used books for impoverished school districts in the southern United States; and

WHEREAS, he has also conducted book drives, contacted local businesses, and secured donations of new books from national textbook publishers; and  
 WHEREAS, Prudential Insurance Company and the National Association of Secondary School Principals are honoring Andrew at the sixth annual Prudential Spirit of Community Awards for his exemplary volunteer work; and

WHEREAS, for his hard work and community involvement, Andrew is receiving a \$1,000 award, an engraved silver medallion, and a trip to Washington D.C. May 5-8 for the program's national recognition events; and

WHEREAS, Andrew will represent the State of Illinois in Washington D.C. and be considered for the honor of being America's top youth volunteer for 2001;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 5, 2001, as ANDREW PENDLEY day in Illinois.

Issued by the Governor March 26, 2001.  
 Filed by the Secretary of State March 29, 2001.

#### 2001-167

##### DAY OF PRAYER

WHEREAS, prayer has aided us when support and guidance is needed; and  
 WHEREAS, the history of our country has been shaped by leaders who voluntarily called upon a higher power whether the need be great or small; and  
 WHEREAS, the citizenry of Illinois is a diverse people, with nearly every nation and a variety of religious traditions represented; and

WHEREAS, it is fitting that we should give thanks to the freedom and prosperity which our nation and State enjoys; and  
 WHEREAS, the State of Illinois and the United States of America can and will benefit from prayer;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

May 3, 2001, as a DAY OF PRAYER in Illinois.

Issued by the Governor March 26, 2001.

Filed by the Secretary of State March 29, 2001.

#### 2001-168

##### V103'S EXPO FOR TODAY'S BLACK WOMAN DAYS

WHEREAS, WVJZ-FM (V103) will present the Ninth Annual V103's Expo For Today's Black Woman, Chicago's premier educational, inspirational and entertaining annual event, on April 6-8, 2001, at the McCormick Convention Center; and

WHEREAS, V103's Expo for Today's Black Woman strives to address issues concerning black women and the black community; and

WHEREAS, the Expo is a forum for educators, writers and community leaders to address and find solutions to issues challenging African American families; and

WHEREAS, highlights of this year's seminars and events include the Youth Summit 2001, the Faces of AIDS, Making a Career Change, Women of Purpose 2001, and Healing For the Mind, Body and Spirit; and

WHEREAS, visitors to V103's Expo For Today's Black Woman will have the opportunity to visit hundreds of booths offering priceless information on such topics as buying a home, insurance rates and plans, automobile shopping, health care, and telecommunications;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 6-8, 2001, as V103'S EXPO FOR TODAY'S BLACK WOMAN DAYS in Illinois.

Issued by the Governor March 26, 2001.

Filed by the Secretary of State March 29, 2001.

#### 2001-169

##### BETTER SPEECH AND HEARING MONTH

WHEREAS, the Illinois Speech-Hearing Association is a non-profit organization founded in 1960, representing over 4,000 licensed professionals with advanced degrees in speech-language pathology and audiology; and  
 WHEREAS, speech-language pathologists and audiologists are professionals who serve people with communicative disorders; and

WHEREAS, speech-language pathologists are trained specialists who work with people of all ages to provide treatment and improve language, voice, stuttering, articulation, memory, literacy, and swallowing; and

WHEREAS, audiologists specialize in the prevention, identification and evaluation of hearing and balance disorders; and the habilitation/rehabilitation of individuals with hearing impairment; and

WHEREAS, about 42 million Americans are affected by communication disorders, including 28 million individuals with hearing loss and 14 million individuals with a speech, voice, or language disorder; and

WHEREAS, these individuals are served in a wide variety of settings including hospitals, nursing homes/extended care facilities, rehabilitation centers, private practice, home health agencies, parent-infant centers, pre-schools, public and private schools, college and university speech-language and hearing clinics, government facilities, and research laboratories;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 2001 as BETTER SPEECH AND HEARING MONTH in Illinois.



Issued by the Governor March 27, 2001.  
Filed by the Secretary of State March 29, 2001.

2001-170

**ECONOMIC EDUCATION WEEK**

WHEREAS, for 50 years, the Illinois Council on Economic Education (ICEE) has been the premier provider in the State of Illinois of economic education programs for citizens of all ages; and

WHEREAS, economic education prepares our youth to be wise consumers, creative business owners, productive workers, prudent savers and investors, and knowledgeable voters in our economy; and

WHEREAS, economic education provides our youth with the tools to be successful in an increasingly competitive world economy; and

WHEREAS, the Illinois Council on Economic Education, located at Northern Illinois University in DeKalb, works through a network of Centers for Economic Education located at universities throughout Illinois; and

WHEREAS, the Council and its centers deliver statewide programs to Illinois classrooms, including the Economics America School Program, the Stock Market Game, and the Economics Poster Contest; and

WHEREAS, the programs of ICEE help students meet the educational standards of the Illinois Board of Education; and

WHEREAS, for 50 years, the Illinois Council on Economic Education represented a strong partnership between education, business, labor and government that offers a cost-efficient, effective educational process with proven and lasting impact; and

WHEREAS, the Illinois Council on Economic Education has partnered with the National Council on Education for 50 years to carry out their joint missions; and

WHEREAS, the Illinois Council on Economic Education has brought economic literacy to the State of Illinois for 50 years;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 22-26, 2001, as ECONOMIC EDUCATION WEEK in Illinois.

Issued by the Governor March 27, 2001.

Filed by the Secretary of State March 29, 2001.

2001-171

**JERRY MANUAL DAY**

WHEREAS, established in 1959, the Little City Foundation provides progressive, community-based service coordination for over 452 children and adults with developmental disabilities who live throughout the Chicago metropolitan area, as well as in homes and apartments at foundation headquarters in Palatine, to help them lead meaningful, productive, and dignified lives; and

WHEREAS, the Little City Foundation will honor Chicago White Sox Manager Jerry Manual at the 20th Annual Celebration of Sports Dinner on April 23, 2001, at the Hyatt Regency Chicago; and

WHEREAS, Jerry Manual graduated in 1972 from Cordova High School in Sacramento, California, where he starred in baseball, basketball and football before being drafted by the Detroit Tigers in the first round of the June 1972 draft; and

WHEREAS, he received over 220 college scholarship offers in various sports by schools such as Notre Dame, Nebraska, UCLA, and Oklahoma; and

WHEREAS, Jerry Manual was featured in an ABC primetime special in February 2001 as part of Black History Month and inducted into the California Black Sports Hall of Fame; and

WHEREAS, Jerry Manual led the White Sox to their first division championship in seven years during 2000, and became the seventh manager in franchise history to take a team to postseason play; and

WHEREAS, Jerry Manual was the youngest among the postseason teams and owned the shortest tenure of any playoff manager; and

WHEREAS, Jerry was named Major League Manager of the Year by The Associated Press and American League Manager of the Year by The Writers Association of America and The Sporting News. He is the fourth manager in White Sox history, and one of four minorities to be honored by the Baseball Writers Association of America;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 23, 2001, as JERRY MANUAL DAY in Illinois.

Issued by the Governor March 27, 2001.

Filed by the Secretary of State March 29, 2001.

2001-172

**MARY BAKER EDDY DAYS**

WHEREAS, Mary Baker Eddy (1821-1910) was a prominent Daughter of New England with an Illinois Connection and will be recognized and honored during National Women's History Month; and

WHEREAS, her pioneering contributions to journalism, publishing, theology, and medicine will be featured in an Exhibit in the Illinois State Capitol Rotunda April 2-6, 2001; and

WHEREAS, Mary Baker Eddy established and distinguished herself as a major religious leader and a powerful voice for individual rights and human betterment, and the effect of her discovery of Christian Science was felt worldwide, including here in Illinois; and

WHEREAS, her students organized churches throughout Illinois, and Christian Science was well represented in Chicago at the 1893 World's Parliament of Religions; and

WHEREAS, Mary Baker Eddy earned broad publication recognition as a pioneer in the field of mind/body medicine, healer and teacher of a system of prayer-based healing, pastor of The First Church of Christ Scientist, and founder of a publishing organization that produces The Christian Science Monitor; and

WHEREAS, her recent honors include being inducted into the Women's National Hall of Fame in 1995, named one of the 25 religious figures who have most influenced Americans during the past century by "Religion and Ethics Newsweekly" in 1998, and winner of the National Organizations of Women Legislators Media Award in 1999; and

WHEREAS, Mary Baker Eddy is the subject of a scholarly biography by noted historian Dr. Gillian Gill, which is part of the distinguished Radcliffe series;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 2-6, 2001, as MARY BAKER EDDY DAYS in Illinois.

Issued by the Governor March 27, 2001.

Filed by the Secretary of State March 29, 2001.



2001-173

## RITA HAYWORTH GALA AND ALZHEIMER'S ASSOCIATION DAY

WHEREAS, Alzheimer's disease is a degenerative neurological disorder that slowly destroys brain cells, ultimately rendering the brain inoperable. Individuals with Alzheimer's cannot recognize the world around them, leaving affected individuals vulnerable to illness and infection; and

WHEREAS, currently, 4 million Americans suffer from Alzheimer's, and it has been estimated that this number will grow to 14 million by the year 2050; and

WHEREAS, the Alzheimer's Association is the only national health organization dedicated to research to conquer Alzheimer's disease and to providing support and assistance to people with the disease, their families, and caregivers; and

WHEREAS, the Association has provided more than \$82 million in funding for hundreds of research studies; and

WHEREAS, the Association has developed an aggressive strategic plan that calls for mobilizing resources worldwide, creating public and private partnerships to stimulate scientific discoveries, increasing federal research funding to \$500 million, increasing research funding by the Association to \$30 million, raising public knowledge of and about the disease, and expanding access to services, information and training for professionals and families; and

WHEREAS, the Chicago Rita Hayworth Gala is a fundraiser to honor the great actress and benefit the Alzheimer's Association to find the causes and cures for the disease; and

WHEREAS, the 14th Annual Rita Hayworth Gala will be held on Saturday, May 12, 2001;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 12, 2001, as RITA HAYWORTH GALA AND ALZHEIMER'S ASSOCIATION DAY in Illinois.

Issued by the Governor March 27, 2001.

Filed by the Secretary of State March 29, 2001.

2001-174

## STROKE AWARENESS MONTH

WHEREAS, brain attacks, commonly known as "strokes" are the third leading cause of death in the United States; and

WHEREAS, the majority of Americans are not aware of their risk factors for a stroke, nor are they aware of the signs and symptoms of an impending stroke; and

WHEREAS, symptoms of stroke may include weakness or numbness on one side of the body, inability to understand or speak clearly, loss of balance, dimness of vision, and/or sudden severe headache; and

WHEREAS, stroke kills more women each year than breast cancer and the stroke death rate is greater among African-Americans and those of Hispanic and Asian descent; and

WHEREAS, new and effective treatments have been developed to ease the severity and damaging effects of strokes, but much more research is needed;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 2001 as STROKE AWARENESS MONTH in Illinois.

Issued by the Governor March 27, 2001.

Filed by the Secretary of State March 29, 2001.

2001-175

## CENTER FOR SPEECH AND LANGUAGE DISORDERS DAY

WHEREAS, the Center for Speech and Language Disorders (CSLD) is a non-profit organization founded in Elmhurst, Illinois, in 1979 by Phyllis Kupperman; and

WHEREAS, CSLD specializes in researching and developing innovative therapies for children with autism and pervasive developmental disorders as early as 18 months to young adulthood; and

WHEREAS, CSLD is an internationally recognized leader in the treatment of hyperlexia and other language learning disorders and continues to be an outspoken advocate for the development of effective treatments for children with a variety of speech and language disorders; and

WHEREAS, speech and language pathologists offer a family-oriented approach while working one on one with the children; and

WHEREAS, these specialists offer therapeutic training techniques to parents and family members; and

WHEREAS, May is National Better Hearing and Speech Month, and CSLD is hosting a Community Open House on May 10, 2001;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 10, 2001, as CENTER FOR SPEECH AND LANGUAGE DISORDERS DAY in Illinois.

Issued by the Governor March 28, 2001.

Filed by the Secretary of State March 29, 2001.

2001-176

## CORNELIA DE LANGE SYNDROME AWARENESS DAY

WHEREAS, the good health and general well-being of the people of Illinois is strengthened by our knowledge and understanding of a rare birth defect known as Cornelia de Lange Syndrome (CdLS); and

WHEREAS, Cornelia de Lange Syndrome can result in low birth weight, a slow rate of mental and physical development, and other physical complications; and

WHEREAS, although a cause has not yet been discovered, dedicated medical professionals are presently involved in valuable research and education activities to explore new possibilities and to offer hope; and

WHEREAS, the Cornelia de Lange Syndrome Foundation, Inc., is a non-profit family support organization founded by concerned parents of children with CdLS, and is a leading advocate of increased public awareness about the syndrome; and

WHEREAS, the mission of the Cornelia de Lange Syndrome Foundation includes promoting research, ensuring early and accurate diagnosis, and helping people with a diagnosis of CdLS, and others with similar characteristics, to make informed decisions throughout their lifetime; and

WHEREAS, Illinois is pleased to join people throughout our state and around the world in promoting a special celebration which seeks to raise awareness of Cornelia de Lange Syndrome, designed to have a positive and productive impact on the lives and experiences of people with CdLS and their caregivers;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 12, 2001, as CORNELIA DE LANGE SYNDROME AWARENESS DAY in Illinois.



Issued by the Governor March 28, 2001.  
 Filed by the Secretary of State March 29, 2001.

## 2001-177

## DRINKING WATER WEEK

WHEREAS, safe drinking water is essential to human life; and  
 WHEREAS, Illinois is blessed with abundant quantities of surface and groundwater resources providing drinking water in amounts adequate to the health, comfort, and safety of Illinois residents; and

WHEREAS, protection of drinking water sources were among the first community projects undertaken as new settlers moved into the Illinois Territory nearly two centuries ago; and

WHEREAS, for generations, dedicated water treatment operators have actively supported programs and regulations designed to consistently improve both the quantity and quality of safe drinking water available to Illinois residents, as well as millions of visitors annually; and

WHEREAS, programs to regulate safety of drinking water have been in place in Illinois for approximately a century; and

WHEREAS, there are 4,579 dedicated men and women currently certified as drinking water operators in Illinois; and

WHEREAS, Illinois citizens can confidently look forward to a new century of safe, clean drinking water delivered in amounts satisfactory to meet everyday human needs as well as the demands of successful industries;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 6-12, 2001, as DRINKING WATER WEEK in Illinois.

Issued by the Governor March 28, 2001.

Filed by the Secretary of State March 29, 2001.

## 2001-178

## MID-CITY NATIONAL BANK DAY

WHEREAS, the Mid-City National Bank was organized in the City of Chicago on April 5, 1911; and

WHEREAS, the Mid-City National Bank has operated continuously at the same location, the southwest corner of Halsted and Madison Streets, in Chicago for nine decades; and

WHEREAS, during the past 90 years, Mid-City National Bank has kept the funds of tens of thousands of individuals and businesses safe, provided financial resources and service to commerce and industry in the manufacturing, transportation, agricultural, real estate and retailing segments of the state and the nation, and offered similar resources to make home ownership a reality to thousands of customers; and

WHEREAS, the bank has grown over the years to bring retail and commercial banking services to a score of locations; and

WHEREAS, Mid-City National Bank has provided continuity through a five-generation family commitment to maintaining the same respectable and reliable service its customers and friends have come to know and rely on for 90 years;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim April 5, 2001, as MID-CITY NATIONAL BANK DAY in Illinois.

Issued by the Governor March 28, 2001.

Filed by the Secretary of State March 29, 2001.

## 2001-179

## PROVIDER APPRECIATION DAY

WHEREAS, the State of Illinois and organizations nationwide recognize Child Care Providers on the Friday before Mother's Day; and

WHEREAS, of the 21 million children under age 6 in America, 13 million are in child care at least part time, and an additional 24 million school-age children are in some form of child care outside of school time; and

WHEREAS, by calling attention to the importance of high-quality child care services for all children and families in our state, these groups hope to improve the quality and availability of such services; and

WHEREAS, the future of our state depends on the quality of the early childhood experiences provided to young children today; and

WHEREAS, high-quality early childhood services such as child care represent a worthy commitment to our children's future; and

WHEREAS, it takes special people to work in this field, and their contributions to the quality of family life frequently go unnoticed;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 11, 2001, as PROVIDER APPRECIATION DAY in Illinois.

Issued by the Governor March 28, 2001.

Filed by the Secretary of State March 29, 2001.



**2001-3  
EXECUTIVE ORDER CREATING THE GOVERNOR'S ILLINOIS LEWIS AND CLARK  
BICENTENNIAL COMMISSION**

WHEREAS, Lewis and Clark began their historic westward expedition through the United States in Illinois; and

WHEREAS, their first camp was pitched on December 12, 1803, at a site located in the Wood River/Hartford area of Madison County at the confluence of the Mississippi and Missouri rivers; and

WHEREAS, there is a national effort underway to commemorate the bicentennial anniversary of the Lewis and Clark Expedition, one of the most ambitious and well-documented explorations of the American West; and

WHEREAS, the years 2003 and 2004 will mark the bicentennial anniversary of the Expedition's preparation and launch in Illinois; and

WHEREAS, many Illinois tourism, historical, and conservation groups are beginning preparations for events and activities to commemorate the Lewis and Clark Expedition in Illinois; and

WHEREAS, it is desirable to create a Commission to prepare Illinois as the official launch site and initial host of the bicentennial celebration of the Lewis and Clark Expedition Bicentennial during the years of 2003-2004.

THEREFORE, I, George Ryan, order the following:

**I. ESTABLISH**

There shall be established the Governor's Illinois Lewis and Clark Bicentennial Commission (the Commission).

**II. PURPOSE**

The purpose of the Commission shall include, but not be limited to the following:

A. Lead the Illinois planning efforts to commemorate the significance of the Lewis and Clark Expedition to our state and national history.

B. Research and make prioritized recommendations outlining the most effective and beneficial means for the State of Illinois to commemorate the Lewis and Clark Expedition.

C. Identify and pursue resources that Illinois agencies and communities will need to effectively commemorate the bicentennial.

D. Implement recommendations by working with the Governor's Office, appropriate State and local government agencies, members of the Illinois General Assembly, and organizations that are dedicated to commemorating the Lewis and Clark Bicentennial.

E. Coordinate communication with the Lewis and Clark Bicentennial Congressional Caucus to ensure identification of Illinois as the official start of Lewis and Clark's Expedition and the prioritization of federal commemorative events in Illinois.

F. Coordinate the scheduling of the Illinois Lewis & Clark bicentennial activities.

**III. MEMBERSHIP**

A. The Commission shall consist of a Chairperson and at least 12 but not more than 30 additional members, all appointed by the Governor.

B. Members shall serve without compensation, but may be reimbursed for expenses.

C. The Commission will be provided assistance and necessary staff support services by the Office of the Governor, the Illinois Department of Commerce and Community Affairs, the Illinois Department of Natural Resources, the Illinois Historic Preservation and other planning agencies of State government involved in organizing the bicentennial celebration.

D. The Commission shall submit an annual report to the Governor and the General Assembly each year and include a list of recommended improvements to Illinois Lewis and Clark commemorative locations.

IV. EFFECTIVE DATE This Executive Order Number 3 (2001) shall be effective upon filing with the Secretary of State.

Issued by the Governor March 14, 2001.

Filed with the Secretary of State March 14, 2001.

**2001-4**

**EXECUTIVE ORDER CREATING MISSISSIPPI DELTA ADVISORY COUNCIL**

WHEREAS, the State of Illinois contains 16 counties in the federally designated Lower Mississippi River Region; and

WHEREAS, the State of Illinois has chosen to participate as a member of the Delta Regional Authority, as passed by Congress and signed into law by the President of the United States; and

WHEREAS, the mission of the Delta Regional Authority is to develop, on a continuing basis, comprehensive and coordinated plans and programs to establish priorities and approve grants for the economic and social development of the region; and

WHEREAS, the Delta initiative is complemented by the Illinois Workforce Advantage program, which is dedicated to expanding access to State services for individuals and families in distressed communities; and

WHEREAS, the State of Illinois is committed to promoting economic and social development throughout the State and particularly in the southernmost counties of Illinois;

THEREFORE, I, George H. Ryan, Governor of Illinois, hereby order the following:

1. There is created a Mississippi Delta Advisory Council, which shall be chaired by the Deputy Chief of Staff (Southern Illinois) to the Governor.

2. The Mississippi Delta Advisory Council shall include not more than twenty-one (21) members, representing: municipal government, education, transportation, housing, regional planning commissions, empowerment zones, banking/lending, public safety/criminal justice, health care, community/economic development, agriculture, and/or members at-large. The Council may also seek the ad hoc participation of other State departments, agencies, boards and commissions, public interest groups and private organizations, as necessary or appropriate. Members shall serve without compensation but shall be reimbursed for expenses.

3. The mission and objectives of the Council will include, but not be limited to, the following:

(a) development of a coordinated policy for increasing awareness of the needs and assets of the Delta counties within Illinois;

(b) review and recommendation of proposed Illinois Delta projects to



- be submitted for funding by the Delta Regional Authority;  
(c) coordination and submission of a State development plan for the Illinois Delta counties, as required by the Delta Regional Authority;  
(d) identification of potential federal, State and local assistance available within the Illinois Delta counties.
4. The Mississippi Delta Advisory Council shall meet as necessary to fulfill the objectives of this Executive Order.
5. This Executive Order shall be effective immediately.  
Issued by the Governor March 16, 2001.  
Filed with the Secretary of State March 16, 2001.



